Rules of Practice

OF THE UNITED STATES PATENT OFFICE

IN PATENT CASES

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OF THE UNITED STATES PATENT OFFICE IN PATENT CASES

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Introduction

THE UNITED STATES PATENT OFFICE

A. Establishment. The Patent Office was established to administer the patent laws enacted by Congress in accordance with article I, section 8, of the Constitution. The first of these laws was enacted April 10, 1790 (1 Stat. 318), but the Patent Office as a distinct bureau, in the Department of State, dates from the year 1802, when an official who became known as the Superintendent of Patents was placed in charge. The general revision of the patent laws enacted July 4, 1836 (5 Stat. 117), reorganized the Patent Office and designated the official in charge as Commissioner of Patents. Another general revision of the patent laws was made in 1870, and since that date numerous acts of Congress relating to patents have been passed. The present patent laws are collected in title 35 of the United States Code. The Patent Office also administers the Federal trade-mark laws (title 15, sections 81 to 108 and 1051 to 1127 of the United States Code). The Patent Office was transferred from the Department of the Interior, in which department it had been since 1849, to the Department of Commerce by Executive order on April 1, 1925, in accordance with the authority contained in the act of February 14, 1903 (32 Stat. 830). The Patent Office is located in Washington, D. C.

B. Functions. The chief functions of the Patent Office are to administer the patent laws as they relate to the granting of letters patent for inventions, and to perform other duties relating to patents. It examines applications for patents to ascertain if the applicants are entitled to patents under the law, and grants the patents when they are so entitled; it publishes issued patents and various publications concerning patents and patent laws, records assignments of patents, maintains a search room for the use of the public to examine issued patents and records, supplies copies of records and other papers, supplies information concerning patents, and the like. Analogous and similar functions are performed with respect to the registration of trademarks.

C. General Organization. The Patent Office is organized broadly in (a) the Office of the Commissioner of Patents (see paragraph D), (b) the Office of the Solicitor (see paragraph E), (c) The Board of Appeals (see paragraph F), (d) the Board of Interference Examiners (see paragraph G), (e) the Patent Examining Operation (see paragraphs H, I, J), and (f) the Executive Office (see paragraph

K); with respect to trade-marks there is (g) the Trade-Mark Examining Operation, and (h) the Office of the Examiner of Trade-Mark Interferences. Various offices and divisions are described in greater detail in the following paragraphs but administrative or internal matters are omitted or mentioned only briefly.

D. Office of Commissioner of Patents. This office comprises the Commissioner of Patents, a First Assistant Commissioner of Patents, and two Assistant Commissioners of Patents. As head of the Patent Office, the Commissioner of Patents superintends or performs all duties respecting the granting and issuing of patents and the registration of trade-marks; exercises general supervision over the entire work of the Patent Office; prescribes the rules, subject to the approval of the Secretary of Commerce, for the conduct of proceedings in the Patent Office and for recognition of attorneys and agents; decides various questions brought before him by petition as prescribed by the rules, and performs other duties necessary and required for the administration of the Patent Office and the performance of its functions. The Commissioner also prescribes rules governing the registration of trade-marks and hears appeals in trade-mark cases. The Assistant Commissioners perform such of the foregoing duties pertaining to the Office of Commissioner as may be assigned by the Commissioner, with the same authority as the Commissioner. One of them serves as Acting Commissioner in the temporary absence of the Commissioner.

E. Solicitor and Law Examiners. The Office of the Solicitor comprises the solicitor and law examiners who constitute the legal staff of the Commissioner. They have charge of litigation in which the Patent Office is a party, acting as counsel in appeals to the United States Court of Customs and Patent Appeals and in suits against the Commissioner; investigate legal and legislative matters for the Commissioner; develop and present to the Commissioner evidence in proceedings for disbarment and suspension of attorneys and agents from practice before the Patent Office; edit the legal portion of the Official Gazette; and perform such other duties in matters coming before the Commissioner as he may assign.

F. Board of Appeals. The Commissioner, Assistant Commissioners and nine examiners-in-chief constitute a Board of Appeals whose duty is to hear and decide appeals from adverse decisions of examiners upon applications for patents. Each appeal is heard and considered by at least three members of the Board of Appeals. Their decisions are reviewable by the courts.

G. Board of Interference Examiners. The Board of Interference Examiners makes final determination for the Patent Office of the question of priority of invention in proceedings involving rival

claimants for patents for the same patentable invention. This board in hearing each case is comprised of three members designated by the Commissioner from among the examiners of interference. Intermediate questions and matters of procedure may be determined by a single examiner of interference. The decisions of the Board of Interference Examiners on the question of priority are reviewable by the courts.

H. Supervisory Examiners. The Supervisory Examiners aid the Commissioner in the administration of the Patent Office with respect to the examining of patent applications and the examining personnel, in coordinating the formal procedures and practices among the examining divisions, and in developing and maintaining competence in professional and technical aspects of the patent examining work. They investigate complaints, investigate or decide for the Commissioner such petitions on matters relating to examining procedure as may be referred or delegated by the Commissioner; pass upon certain actions proposed to be taken by examiners; and perform such other duties as may be assigned by the Commissioner.

I. Patent Examining Divisions. The examination of applications for patent is the largest and most important function of the Patent Office. The work is divided among the various patent examining divisions, which are designated by number (at present there are seventy such examining divisions), and a design division, each having jurisdiction over certain assigned fields of invention. Each division is headed by a primary (or principal) examiner and staffed by a number of examiners, one of whom is designated to act as head of the division in the absence of the primary examiner. The examiners perform the work of examining applications for patents and determine whether patents can be granted. An appeal can be taken to the Board of Appeals from their decisions refusing patent and a review by the Commissioner of Patents may be had on other matters by petition. The examiners also determine when an interference exists between pending applications, or a pending application and a patent, institute interference proceedings in such cases and hear and decide certain preliminary questions raised by the contestants.

J. Classification Divisions. The Classification Divisions, headed by the supervisory classification examiner, supervise the existing classification of issued patents, revise unclassified and obsolete classes and make new classes when necessary. The classification examiners review requirements for division in applications improperly claiming more than one invention before they can be made final.

K. Executive Office. The Executive Office is headed by the executive officer and includes the following service and administrative divisions:

(a) Administrative Management Division.
(b) Personnel Division.
(c) Administrative Services Division:
    (1) Register, Correspondence and Mail Branch (see paragraphs L, W).
    (2) Office Services Branch.
    (3) Patent Copy Sales Branch (see paragraph M).
    (4) Manuscript and Lithographic Branch (see paragraph N).
(d) Financial Division (see paragraph O).
(e) Patent Services Division:
    (1) Application Branch (see paragraph P).
    (2) Drafting Branch (see paragraph Q).
    (3) Issue and Gazette Branch (see paragraph R).
    (4) Docket Branch (see paragraph S).
    (5) Assignment Branch (see paragraph T).
    (6) Scientific Library (see paragraphs U, V).
(f) Budget Division.

L. Register, Correspondence and Mail Branch. The Register, Correspondence and Mail Branch opens and distributes all official mail and sees to it that all remittances are properly applied, recorded and deposited with the financial officer. It has custody of the general correspondence not relating to particular applications for patents. Some routine inquiries are answered by circular letter sent out by this branch. The register of patents available for license or sale, described in paragraph W is maintained by this branch.

M. Patent Copy Sales Branch. This branch has charge of the storage and sale of printed copies of patents and trade-mark registrations. It also handles the sale of special publications prepared and distributed by the Patent Office.

N. Manuscript and Lithographic Branch. The Manuscript and Lithographic Branch has charge of furnishing to the public copies of records of the Patent Office. It makes photostat and photographic copies of records, books, patents, etc., and also typewritten copies of manuscripts. It also prepares certified copies of patents and other papers to be authenticated under the seal of the Patent Office.

O. Financial Division. The Financial Division is headed by a financial officer who receives and accounts for all fees paid into the Patent Office and deposits them in the United States Treasury. Coupons redeemable for copies of patents and other papers are sold, and deposit accounts for the payment of certain charges are maintained. This Division also has charge of refunding money paid by mistake or in excess.

P. Application Branch. The Application Branch receives, re-

cords and acknowledges all applications for patents when they are filed. Upon receipt of an application, the papers are scrutinized to see if the application is complete in all its parts and complies with certain formal requirements. If the papers are not sufficiently complete to be accepted as an application for patent, the applicant is notified of the deficiencies and the papers are held for completion. If it is complete, the application (the papers being placed in a jacket or file) is given a serial number and filing date, indexed, and (after the drawing has been inspected by the Drafting Branch) sent to the particular Examining Division having charge of the subject matter of the application.

Q. Drafting Branch. The Drafting Branch inspects the drawings accompanying applications for patents and for registration of trade-marks to insure compliance with the formal rules relating to drawings and minimum standards of execution. It also prepares new drawings from sketches or models when ordered by an applicant, and makes corrections in drawings on file.

R. Issue and Gazette Branch. This branch has the duty of attending to the details of issuing the patents after the applications have been allowed by the examiner. It prepares the specifications for printing and supervises the printing which is done at the Government Printing Office. It also prepares the drawings for photolithographing and supervises this work. It takes care of the numbering, dating, indexing, and recording of patents when granted, and prepares and mails the formal grants. The same work is done in the case of trade-mark registrations. The preparation for printing of the Official Gazette of the United States Patent Office with its indexes, the annual volumes of Decisions of the Commissioner of Patents, and other publications, are also functions of this Branch.

S. Docket Branch. The Docket Branch has custody of patent and trade-mark dockets for the Commissioners, the files in interference cases except when they are in use by the examiners, and papers in cases appealed to the Court of Customs and Patent Appeals. Papers filed in such cases go to the docket clerk who enters them and is responsible for their custody and distribution. This branch also handles correspondence relating to the revocation of powers of attorney or authorization of agents.

T. Assignment Branch. The Assignment Branch receives and records all assignments transferring property rights in patents and trade-marks, and applications for the same. After the assignments are recorded, and the records compared, they are returned to the owners. The division also makes searches of the titles of patents and trade-marks and furnishes abstracts of titles. Digests and indexes are made of all assignments in order to facilitate title searches. These are available to the public. The Assignment Branch also maintains

a Register of Government Interests in Patents for the use of the Government but part of this register is available to public inspection.

U. Scientific Library. The Scientific Library contains over 35,000 volumes of scientific and technical books in various languages, about 40,000 bound volumes of periodicals devoted to science and technology, the official journals of foreign patent offices and over 6,000,000 copies of foreign patents in bound volumes. In many cases there are two sets of foreign patents, one set arranged in numerical order and one set classified according to the classification of the country of origin of the patents.

V. Search Room and Record Room. A search room is maintained for the benefit of the public in searching and examining United States patents. It contains a set of United States patents granted since 1836 arranged according to the Patent Office classification. By searching in these classified patents, it is possible to determine, before actually filing an application, whether an invention has been anticipated by a United States patent, and it is also possible to obtain the information contained in the patents relating to any field of endeavor.

Attached to the search room is a record room in which the public may inspect the records and files of issued patents and such other records as may be open to their inspection. The record room contains a set of United States patents arranged in numerical order, in bound volumes, and a complete set of the Official Gazette.

Parties and their attorneys or agents may examine their own cases in the record room and public records may be examined in the record room, search room, or library, as the case may be. Parties, their attorneys or agents, and the general public are not entitled to use the records and files in the examiners' rooms.

The Scientific Library, Search Room and Record Room are in immediate charge of the librarian.

The search room and scientific library are open during office hours from 8:30 a. m. to 5 p. m. on work days, and in addition, the search room is open evenings from 5 p. m. to 9 p. m. on work days, and on Saturdays from 8:30 a. m. to 12:30 p. m.

W. Register of Patents Available for License or Sale. The Patent Office maintains a register on which patentees who are offering their patents for licensing or sale may have them listed. Patents placed on this register are abstracted in nontechnical language and these abstracts are published in the Official Gazette. Reprints of these abstracts are furnished to technical and trade journals. Patent users and other interested parties are supplied with copies of these reprints. No formal application is necessary to place a patent by the owner on the register, a written request by the owner, accompanied

by a copy of the patent with a statement that he will grant licenses or sell on reasonable terms, being sufficient.

X. Publications of the Patent Office. (a) *Patents.* The specification and accompanying drawings of all patents are published on the day they are granted and copies are sold to the public by the Patent Office. The specifications are initially printed at the Government Printing Office and the drawings photolithographed by contractors. When the first edition is exhausted, reproductions are made by photolithography.

(b) *Trade-marks.* Copies of trade-mark registrations are also printed and sold by the Patent Office.

(c) *Official Gazette of the United States Patent Office.* The Official Gazette of the United States Patent Office is the official journal relating to patents and trade-marks. It has been published weekly since January 1872 (replacing the old Patent Office Reports), and is now issued each Tuesday, simultaneously with the weekly issue of the patents. It contains a claim and a selected figure of the drawings of each patent granted on that day, an illustration of each trade-mark published for opposition, a list of trade-marks registered, and other trade-mark information; decisions in patent and trade-mark cases rendered by the courts and the Patent Office; notices of patent and trade-mark suits; indexes of patents and patentees; disclaimers filed; lists of patents available for license or sale; and much general information such as orders, notices, changes in rules, changes in classification, etc.

The Official Gazette is sold, by annual subscription and in single copies, by the Superintendent of Documents. The pages containing the decisions and other information, and those containing trade-mark material, are separately stitched and may be purchased independently of the remainder of the Gazette.

(d) *Annual index.* The annual index to the Official Gazette contains alphabetical indexes of the names of patentees, the subject matter of the patents granted, the names of trade-mark registrants, the names of the goods to which the trade-marks are applied, and the disclaimers filed, during the calendar year. Copies are sold by the Superintendent of Documents. At present it is issued in two volumes, one for patents and one for trade-marks.

(e) *Decisions of the Commissioner of Patents.* There is issued annually a volume republishing the decisions which have been published weekly in the Official Gazette. Copies are sold by the Superintendent of Documents.

(f) *Manual of classification.* The present manual of classification is a loose-leaf book containing a list of all the classes and subclasses of inventions in the Patent Office classification of patents, a subject matter index, and other information relating to classification. Sub-

stitute pages are issued from time to time. The manual and subscriptions for the substitute pages are sold by the Superintendent of Documents.

(g) *Classification bulletins.* The various changes and advances in classification made from time to time are collected and published in bulletins which give these changes as well as the definitions of new and revised classes and subclasses. These bulletins are sold by the Superintendent of Documents as well as by the Patent Office.

(h) *Patent laws.* A compilation of the patent laws in force, revised editions being published from time to time.

(i) *Rules of practice of the United States Patent Office.* This publication contains the rules governing the procedure in the Patent Office, which have been adopted by the Commissioner under the authority of the patent statutes and approved by the Secretary of Commerce, and supplementary material including forms.

(j) *Rules of Practice in Trade-Mark Cases with forms and statutes.* This publication combines in pamphlet form the Rules of Practice in Trade-Mark Cases and the Federal trade-mark statute.

(k) *General information concerning patents.* This pamphlet is designed for the layman and contains a large amount of general information concerning the granting of patents expressed in non-technical language. It is distributed by the Commissioner free on request.

(l) *General information about protection of trade-marks.* This pamphlet serves the same purpose with reference to trade-marks as the preceding does concerning patents.

(m) *Roster of Attorneys and Agents Registered to Practice before the U. S. Patent Office, January 1, 1949.*

(n) *Other publications.* The publications listed are those published regularly and currently, those no longer published and those only issued on occasion not being listed. Circulars of information on particular subjects are also issued to answer particular inquiries.

Y. Records and Information. Applications for patent are not open to the public and information concerning them is not given except on authority of the applicant, or when necessary to the conduct of the business of the Office. Patents and trade-mark registrations and the records relating to the same including any decisions therein, the records of assignments, books and other records and papers in the Office are open to the public and may be inspected in the Patent Office or copies may be ordered. The Office can not respond to inquiries concerning the novelty and patentability of an invention or the registrability of a trade-mark in advance of the filing of an application, nor advise of the propriety of filing an application, nor respond to inquiries as to whether any alleged invention has been patented or trade-mark registered, and, if so, to whom, nor can the office act as an

expounder of the patent law nor as counsellor for individuals, except in deciding questions arising before it. Information of a general nature may be furnished either directly or by supplying or calling attention to an appropriate publication.

Z. Outline of Procedure in Obtaining Patents. (a) The obtaining of a patent is initiated by the filing of an application in the Patent Office. The application includes a complete description of the invention, claims defining the invention, a drawing in each case admitting of a drawing, an oath, and a filing fee, and must comply with various requirements. The application must be made by the inventor with the papers signed and the oath sworn to by him (unless he is dead or insane). The application is forwarded to the appropriate Examining Division where, when its turn is reached, it is examined. The application is studied and a search is made through all prior United States patents, and also through patents of foreign countries and publications to find out if the invention is new. A decision is reached, in the light of the study and the results of the search, as to the patentability of the invention or the claims presented and also as to various formal matters. The decision is communicated to the applicant. If adverse, the applicant may ask for reconsideration with or without amending. The application is then re-examined and reconsidered and the result again communicated to the applicant. Further reconsideration of the application may be given,

(b) If the final decision of the examiner is adverse to the granting of a patent, or any of the claims presented, the applicant may appeal to the Board of Appeals and is entitled to an oral hearing. From the decision of the Board of Appeals an appeal may be taken to the United States Court of Customs and Patent Appeals or a civil action may be brought against the Commissioner in the United States District Court for the District of Columbia. Matters of form and procedure may be reviewed on petition to the Commissioner.

(c) The various responses and actions which an applicant may take are governed by time limits fixed by or under the statute and rules and an application is abandoned by failure to reply or take appropriate action within the specified times. An abandoned application may be revived as a pending application by the Commissioner if the delay was unavoidable.

(d) If there are two or more applications for a patent for the same invention, an interference proceeding to determine who is the prior inventor and entitled to the patent is instituted by the examiner, who also decides certain preliminary questions relating to the interference. An interference may also be declared between a pending application and an unexpired patent under certain conditions. The question of priority of invention is determined by a board of three Examiners of Interference and their decision is reviewable by the courts, either by

an appeal to the United States Court of Customs and Patent Appeals or by a civil action in a United States District Court.

(e) When it has been decided that a patent is to be granted, the applicant is sent a notice of allowance and if the final fee, due within six months, is paid, the patent is granted in due course. If the final fee is not paid, the patent is not granted, but the fee may be accepted late upon petition to the Commissioner accompanied by a petition fee and a verified statement provided the delay does not exceed one year.

(f) The prosecution of an application for patent must be conducted in writing and the personal attendance of applicants is not required and is unnecessary. Applicants may arrange for interviews with examiners at such times within office hours as the examiners may designate.

(g) An applicant for a patent may prosecute his own case, but he is entitled to be, and usually is, represented by an attorney or agent. No person may represent applicants before the Patent Office unless he is registered in the Patent Office as an attorney or agent, or authorized and recognized to prosecute a particular case.

RULES OF PRACTICE

The following rules governing the practice and procedure in the Patent Office with respect to applications for patent and related matters, and the recognition of attorneys and agents, have been adopted and promulgated, effective March 1, 1949, under the authority of R. S. 483; 35 U. S. C. 6, R. S. 487; 35 U. S. C. 11, and other authority, after publication of proposed rules and a public hearing, and consideration of the material and arguments submitted.

These rules were published in the Federal Register for December 31, 1948. In the Federal Register and in the Code of Federal Regulations these rules are Part 1 of Title 37, Patents, Trade-Marks and Copyrights, Subchapter A, Patents, and the individual rules, there called sections, are numbered with the part number and a decimal point prefixed to the numbers to the rules here used; thus section 1.33 in the Federal Register and Code of Federal Regulations is here termed rule 33.

GENERAL INFORMATION AND CORRESPONDENCE

1. All communications to be addressed to The Commissioner of Patents. All letters and other communications intended for the Patent Office must be addressed to "The Commissioner of Patents," Washington 25, D. C. When appropriate, a letter may be marked for the attention of a particular officer or individual. [*Rule 2*] [1]

2. Business to be transacted in writing. All business with the Patent Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent Office is unnecessary. The action of the Patent Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. [*Rules 1, 4*]

3. Business to be conducted with decorum and courtesy. Applicants and their attorneys or agents are required to conduct their business with the Patent Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order. Complaints against examiners and other employees must be made in communications separate from other papers. [*Rule 22 a, b*]

[1] The number of the old rule approximately corresponding in whole or in part to the new rule is placed in brackets following each rule.

4. Nature of correspondence. (a) Correspondence with the Patent Office comprises (1) correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing and prosecution of applications or other proceedings (rule 31 and following rules).

(b) Since different matters may be considered by different branches or sections of the Patent Office, each distinct subject, inquiry, or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects. [*Rule 8*]

5. Identification of application or patent. (a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number of the application, the date of filing the same, and, if known, the division to which it has been assigned (see rule 55).

(b) When the letter concerns a patent, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention. [*Rules 9, 10*]

6. Receipt of letters and papers. (a) Letters and other papers received in the Patent Office are stamped with the date of receipt.

(b) Mail placed in the Patent Office pouch up to midnight on weekdays, excepting holidays, by the post office at Washington, D. C., serving the Patent Office, is considered as having been received in the Patent Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the 14th and E Street entrance of the Patent Office on weekdays except Saturdays, and at the main entrance of the Commerce Building on Saturdays, excepting holidays, and all papers deposited therein are considered as received in the Patent Office on the day of deposit.

(d) No papers are received in the Patent Office on Sundays or holidays within the District of Columbia. [*Rule 12*]

7. Times for taking action; expiration on Sunday or holiday. Whenever periods of time are specified in these rules in days, calendar days are intended unless otherwise indicated. When the day, or the last day, fixed by statute or by or under these rules for taking any action or paying any fee falls on Sunday, or on a holiday within the

District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Sunday or a holiday.

[*Rule 31, par. 6*]

44 Stat. 1337, sec. 14; 35 U. S. C. 21. Day for taking any action or paying any fee falling on Sunday or holiday. Where the day, or the last day, fixed by statute for taking any action or paying any fee in the United States Patent Office falls on Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding secular or business day. (Mar. 2, 1927, ch. 273, sec. 14, 44 Stat. 1337.)

NOTE: The following days are holidays in the District of Columbia: New Year's Day, January 1; Washington's Birthday, February 22; Memorial Day, May 30; Independence Day, July 4; Labor Day (first Monday in September); Armistice Day, November 11; Thanksgiving Day (fourth Thursday in November); Christmas Day, December 25; Inauguration Day, January 20 (every 4 years).

RECORDS AND FILES OF THE PATENT OFFICE

11. Patent files open to the public. After a patent has been issued, the specification, drawings, and all papers relating to the case in the file of the patent are open to inspection by the general public, and copies may be furnished upon paying the fee therefor. The file of any terminated interference involving a patent, or an application on which a patent has subsequently issued, is similarly open to public inspection and procurement of copies. [*Rule 16*]

12. Assignment records open to public inspection. The assignment records, including digests and indexes, are open to public inspection and copies of any instrument recorded may be obtained upon payment of the fee therefor. An order for a copy of an assignment should give the liber and page of the record. If identified only by the name of the patentee and number of the patent, or by name of the applicant and serial number of the application, an extra charge will be made for the time consumed in making a search for such assignment. [*Rule 192*]

13. Copies and certified copies. (a) Copies of patents and of any records, books, papers, or drawings belonging to the Patent Office and open to the public, will be furnished by the Patent Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the fee therefor.

(b) Such copies will be authenticated by the seal of the Patent Office and certified by the Commissioner, or in his name attested by a chief of division, duly designated by the Commissioner, upon payment of the fee for the authentication certificate in addition to the fee for the copies. [*Rule 193*]

14. Applications preserved in secrecy. (a) Pending applications are preserved in secrecy. No information will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules.

(b) Abandoned applications are likewise not open to public inspection, except that if an application referred to in a United States patent is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. Abandoned applications may be destroyed after twenty years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

(c) Applications for patents which disclose or which appear to disclose, or which purport to disclose, inventions or discoveries relating to atomic energy are reported to the Atomic Energy Commission and the Commission will be given access to such applications, but such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or an invention or discovery or that such application in fact discloses subject matter in categories specified by sec. 11 (d) of the Atomic Energy Act of 1946, 60 Stat. 768, 42 U. S. C. 1811. [*Rule 15*]

46 Stat. 156, sec. 6; 35 U. S. C. 23. Files and papers of abandoned applications; disposition. The Commissioner of Patents is authorized to annually destroy or otherwise dispose of all the files and papers belonging to all abandoned applications which have been on file for more than twenty years.

60 Stat. 768, sec. 11; 42 U. S. C. 1811, Atomic Energy Act, extract from. (a) (3) Any person who has made or after August 1, 1946, makes any invention or discovery useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon shall file with the Commission a report containing a complete description thereof, unless such invention or discovery is described in an application for a patent filed in the Patent Office by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before whichever of the following is the latest: (A) The sixtieth day after August 1, 1946; (B) the sixtieth day after the completion of such invention or discovery; or (C) the sixtieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization. . . .

(*d*) The Commission is authorized to purchase, or to take, requisition, or condemn, and make just compensation for, (1) any invention or discovery which is useful in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon, or which utilizes or is essential in the utilization of fissionable material or atomic energy, or (2) any

patent or patent application covering any such invention or discovery. The Commissioner of Patents shall notify the Commission of all applications for patents heretofore or hereafter filed which in his opinion disclose such inventions or discoveries and shall provide the Commission access to all such applications.

FEES AND PAYMENT OF MONEY

21. Fees and charges. The following is the schedule of fees and charges to be paid to the Patent Office:

1. Filing fee. On filing each original application for a patent having 20 claims or less, except in design cases	$30.00
For each additional claim over 20	1.00
2. Final fee. On issuing each original patent having 20 claims or less, except in design cases	30.00
For each additional claim over 20	1.00
3. Filing fee, designs. In design cases:	
For term of 3 years and 6 months	10.00
For term of 7 years	15.00
For term of 14 years	30.00
4. Filing fee, reissues. On every application for the reissue of a patent	30.00
5. On filing each petition for the revival of an abandoned application for patent	10.00
6. On filing each petition for the delayed payment of the final fee	10.00
7. On an appeal for the first time from the Primary Examiner to the Board of Appeals	15.00
8. On filing each disclaimer	10.00
9. For certification of copies of records, etc., in any case, in addition to the cost of copy certified	.50
10. For typewritten manuscript copies of records, for every 100 words or fraction thereof	.10
11. For photostat copies of records or printed material, per sheet	.20
12. For photo prints of drawings, for each sheet of drawing	.20
13. For uncertified printed copies of the specifications and accompanying drawings of patents, except design patents, if in print, each	.25
14. For certified copies of patents if in print:	
For specification and drawing, per copy	.25
For the certificate	.50
For the grant	.50
15. For uncertified printed copies of design patents, if in print	.10
16. For recording every assignment, agreement, or other paper, not exceeding six pages	3.00
For each additional patent or application included or involved in one writing, where more than one is so included or involved, additional	.50
For each additional two pages or less	1.00
17. For abstracts of title to each patent or application:	
For the search, one hour or less, and certificate	3.00
Each additional hour or fraction thereof	1.50
For each brief from the digest of assignments, of 200 words or less	1.00
Each additional 100 words or fraction thereof	.10
18. For title reports required for Office use	1.00
19. For translations, made only of references cited in applications or of papers filed in the Office, for every 100 words or fraction thereof	1.25

20. On admission to practice as an attorney or agent 5.00
21. For certificate of good standing as an attorney or agent 1.00
22. For making drawings, when they can be made by the Patent Office, the cost of making the same, minimum charge per sheet 15.00
23. For correcting drawings, the cost of making the correction, minimum charge 1.00
24. For the mounting of unmounted drawings and photoprints received with patent applications, provided they are of approved permanency .. 1.00
25. For photographic prints of patent models, building facilities, etc., if available:
    For 5 x 7 photographic print ..... .50
    For 8 x 10 photographic print ..... .75
26. Searching for and suppling list of references cited in the file of a patent issued before February 4, 1947 (this list is printed on the copies of patents issued on and after February 4, 1947), for list and time involved, one hour or less, $1.50, and $1.50 for each additional hour or fraction.
27. Search of records to determine the filing by any particular person of applications for patents, on presentation of proper authorization, one hour or less 1.50
28. Subscription orders for printed copies of patents as issued: Annual service charge for entry of order and one subclass, $1.00, and 10 cents for each additional subclass; amount to be deposited (for the price of the copies supplied), as determined with respect to each order.
29. Lists of U. S. patents classified in a subclass, made to order, per sheet (containing 100 patent numbers or less) ..... .20
30. Local delivery box rental, annual 5.00

NOTE: The Official Gazette and other publications in the following list are sold, and the prices therefor established, by the Superintendent of Documents, Government Printing Office, Washington 25, D. C., to whom all communications respecting the same should be addressed (except with respect to items indicated as supplied by the Patent Office only).

Official Gazette of the United States Patent Office:
- Annual subscription, domestic $17.50
  Including indexes of patents and trade-marks, paper bound $21.00; cloth bound $24.50.
- Annual subscription, foreign 26.50
  Including indexes of patents and trade-marks, paper bound $31.00; cloth bound $34.50.
- Single numbers ..... .35

Portions of the Official Gazette supplied separately:
- Decision leaflets, domestic $2.50, foreign $4.25, per annum; single numbers ..... .05
- Trade-mark section, domestic $8.00, foreign $10.00, per annum; single numbers ..... .20
- Weekly index pages (supplied only by Patent Office), $2.50 per annum; single numbers ..... .05
- Weekly page or pages of classification of patents issued that week (supplied only by the Patent Office), $2.50 per annum; single numbers ..... .05

Annual index relating to patents; price varies, 1947 volume, $4.00 cloth; paper 2.00

Annual index relating to trade-marks; price varies, 1947 volume, $3.00 cloth; paper $1.75

Decisions of the Commissioner of Patents; price varies, 1946 volume, buckram 2.00

Classification Bulletins published from time to time (also supplied by the Patent Office), price varies for different numbers, according to size, from 10 to 35 cents.

Roster of Attorneys and Agents Registered to Practice before the United States Patent Office, January 1, 1949 (supplied only by the Patent Office) 1.00

Manual of Classification of Patents (July 1947) 4.00

[*Rule 191*]

35 U. S. C. 45. Patents without fees to Government officers for inventions used in public service. The Commissioner of Patents is authorized to grant, subject to existing law, to any officer, enlisted man, or employee of the Government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section 31 of this title, without the payment of any fee when the head of the department or independent bureau certifies such invention is used or liable to be used in the public interest: *Provided*, That the applicant in his application shall state that the invention described therein, if patented, may be manufactured and used by or for the Government for governmental purposes without the payment to him of any royalty thereon, which stipulation shall be included in the patent. (Mar. 3, 1883, ch. 143, 22 Stat. 625; Apr. 30, 1928, ch. 460, 45 Stat. 467.)

22. Fees payable in advance. Fees and charges payable to the Patent Office are required to be paid in advance, that is, at the time of making application for any action by the Office for which a fee or charge is payable. [*Rule 190*]

23. Method of payment. All payments of money required for Patent Office fees should be made in United States specie, Treasury notes, national bank notes, post office money orders or postal notes payable in Washington, D. C., or by certified checks. If sent in any other form, the Office may delay or cancel the credit until collection is made. Money orders and checks must be made payable to the Commissioner of Patents. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent Office will be at the risk of the sender; letters containing money should be registered. [*Rule 194*]

24. Coupons. Coupons in denominations of ten cents and twenty-five cents are sold by the Patent Office for the convenience of regular purchasers of printed copies of patents and designs (and also of trade-mark registrations); these coupons may also be used for small remittances. The ten-cent coupons are sold individually and in pads of 20 for $2.00 and books of 100 with stubs for record for $10.00. The twenty-five-cent coupons are sold individually and in pads of 20

for $5.00 and in books of 100 with stubs for record for $25.00. These coupons are good until used; they may be transferred but cannot be redeemed.

NOTE: Public document coupons issued by the Superintendent of Documents cannot be used in the Patent Office, nor can the coupons issued by the Patent Office be used at the Government Printing Office or elsewhere.

25. Deposit accounts. (a) For the convenience of attorneys, agents, and the general public, in ordering services offered by the Office, copies of records, etc., special deposit accounts may be established in the Patent Office. A minimum deposit of $25.00 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. Whenever the statement shows that the account has fallen below the required minimum balance, a remittance must be made to cover the deficiency. An amount sufficient to cover all services, copies, etc., requested must always be on deposit.

(b) Filing, final, appeal, and petition fees will not be charged against these accounts.

26. Refunds. Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desired to withdraw his application for a patent or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of ten cents or less will not be returned unless specifically demanded, within a reasonable time, nor will the payer be notified of such amount; amounts over ten cents but less than one dollar may be returned in postage stamps, and other amounts by check. [*Rule 195*]

R. S. 4935, 4936; 35 U. S. C. 79. Patent fees; disposition of; return of excess fees. All patent fees shall be paid to the Commissioner of Patents, who shall give the depositor a receipt or certificate of deposit therefor and shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury shall direct, and said Commissioner is authorized to pay back any sum or sums of money paid to him by any person by mistake or in excess of the fee required by law.

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

31. Applicants may be represented by an attorney or agent. An applicant for patent may file and prosecute his own case, or he may be represented by an attorney or agent authorized to practice before the Patent Office in patent cases. The Patent Office cannot aid in the selection of an attorney or agent. [*Rule 17, par. 1*]

32. Prosecution by assignee. The assignee of record of the entire interest in an application for patent is entitled to conduct the prosecution of the application to the exclusion of the inventor. [*Rule 5*]

33. Correspondence when no attorney or agent. When no attorney or agent has been appointed, all notices, official letters and other communications in the case will be sent to the applicant, or to the assignee of the entire interest if the applicant or such assignee so request, or to the assignee of an undivided part if the applicant so request, at the post office address of which the Office has been notified in the case. Amendments and other papers filed in the application must be signed by the applicant, or if there is an assignee of an undivided part interest, by the applicant and such assignee, or if there is an assignee of the entire interest, by such assignee. [*Rules 6, 73*]

34. Power of attorney or authorization. Before any attorney or agent, original or associate, will be allowed to inspect papers or take action of any kind in any application or proceeding, a written power of attorney or authorization, from the person or persons entitled to prosecute the application or from the principal attorney or agent in the case of an associate attorney or agent, must be filed in that particular application or proceeding. [*Rule 18*]

35. Correspondence held with attorney. When an attorney or agent shall have filed his power of attorney, or authorization, duly executed, the correspondence will be held with him; notices, official letters and other communications in the case intended for the applicant will be sent to the attorney or agent at the address of which notice shall have been given in the case, and replies to Office actions, or other actions in the case, will be received from him. Double correspondence with an applicant and his attorney or agent, or with two representatives, will not be undertaken. If more than one attorney or agent be appointed, correspondence will be held with the one last appointed unless otherwise requested. [*Rule 7*]

36. Revocation of power of attorney or authorization; withdrawal of attorney or agent. A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner; and when it is so revoked, or the attorney or agent so withdrawn, the Office will communicate directly with the applicant, or with such other attorney or agent as he may appoint. An attorney or agent will be notified of the revocation of his power of attorney or authorization and the applicant will be notified of the withdrawal of the attorney or agent. An assignment will not of

itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of his own selection. [*Rule 20*]

WHO MAY APPLY FOR A PATENT

41. Only inventor may apply for patent. Only the actual inventor may apply for a patent and the application papers must be signed and the necessary oath executed by the inventor, unless the inventor is dead or insane. See rule 147.

42. When the inventor is dead. In case of the death of the inventor, the executor or administrator of the deceased inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent may be issued to the executor or administrator upon proper intervention by him. [*Rule 25, par. 1*]

R. S. 4896; 35 U. S. C. 46. Death or insanity of inventor. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted the right of applying for and obtaining the patent shall devolve on his legally appointed guardian, conservator, or representative in trust for his estate in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him while sane; and when the application is made by such legal representatives the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States.

43. When the inventor is insane. In case an inventor becomes insane, the legally appointed guardian, conservator, or representative of the insane inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent. [*Rule 25, par. 2*]

44. Proof of authority. In the cases mentioned in rules 42 and 43, proof of the power or authority of the executor or administrator,

or of the guardian, conservator, or representative, must be recorded in the Patent Office before the grant of a patent.

45. Joint inventors. (a) Joint inventors must apply for a patent jointly and each must sign the application papers and make the required oath; neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly.

(b) If an application for patent has been made inadvertently or by mistake and without fraudulent intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the names of those not inventors upon filing a statement of the facts verified by all of the original applicants, and an oath as required by rule 65 by the applicant who is the actual inventor, provided the amendment is diligently made. An application can not be amended to add the name of a joint inventor who was omitted, but a new independent application must be filed. [*Rule 28*]

46. Assigned inventions and patents. In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made by the inventor as indicated in rules 41 and 45, or by one of the persons mentioned in rules 42 and 43. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in rule 334. [*Rule 26*]

47. Applicant. Unless the contrary is indicated, the word "applicant" when used in these rules refers to the inventor (rule 41), joint inventors who have applied for a patent (rule 45), or to the person mentioned in rule 42 or 43 who has applied for a patent in place of the inventor.

R. S. 4886; 35 U. S. C. 31. Inventions patentable. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, or who has invented or discovered and asexually reproduced any distinct and new variety of plant, other than a tuber-propagated plant, not known or used by others in this country, before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, or more than one year prior to his application, and not in public use or on sale in this country for more than one year prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor.

61 Stat. 794 (Public Law 380, Aug. 6, 1947) sec. 1; 35 U. S. C. 101 note. Patents to nationals of Italy, Bulgaria, Hungary and Rumania. The International Convention for the Protection of Industrial Property of 1883, as amended, is considered as reestablished and in full force and effect between the United States and Italy, Bulgaria, Hungary, and Rumania from the date of this Act [Aug. 6, 1947] and the nationals of the latter countries may hereafter apply for and obtain

patents in the United States for their inventions and enjoy the rights and privileges thereof as provided in article 2 of said convention: *Provided, however,* That patents shall not be applied for or obtained, or if obtained, shall not be valid, for inventions heretofore made relating to war material as specified in article 6 of annex XV A of the Treaty of Peace with Italy, article 6 of annex IV of the Treaty of Peace with Bulgaria, article 6 of annex IV A of the Treaty of Peace with Hungary, and article 6 of annex IV A of the Treaty of Peace with Rumania.

61 Stat. 794 (Public Law 380, Aug. 6, 1947) sec. 3; 35 U. S. C. 101 note. Patents to nationals of Germany and Japan. Nationals of Germany and Japan may hereafter apply for and obtain patents in the United States for their inventions in accordance with the patent laws and enjoy the rights and privileges thereof: *Provided, however,* That patents obtained for such inventions shall be subject to any conditions and limitations with respect to duration, revocation, utilization, assignment, and licensing which may be imposed by Congress, or by the President in accordance with the provisions of any peace treaty hereafter entered into with Germany or Japan: *And provided further,* That, except for patents based on applications filed in the United States Patent Office prior to the date of enactment of this Act [Aug. 6, 1947], patents may not be applied for or obtained, or if obtained, shall not be valid, for any invention made, or upon which an application was filed by any such national, before January 1, 1946, in Germany or Japan or in the territory of any other of the Axis Powers or in any territory occupied by the Axis forces.

60 Stat. 768, sec. 11; 42 U. S. C. 1811. Atomic Energy Act, extract from. (a) (1) No patent shall be granted after August 1, 1946, for any invention or discovery which is useful solely in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon. Any patent granted for any such invention or discovery is hereby revoked, and just compensation shall be made therefor.

(2) No patent granted after August 1, 1946, shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the production of fissionable material or in the utilization of fissionable material or atomic energy for a military weapon. Any rights conferred by any patent granted prior to August 1, 1946, for any invention or discovery are hereby revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor. . . .

(*b*) No patent granted after August 1, 1946, shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the conduct of research or development activities in the fields specified in section 1803 of this title. Any rights conferred by any patent heretofore granted for any invention or discovery are revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor. . . .

R. S. 4887; 35 U. S. C. 32, first paragraph. Inventions previously patented abroad. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section 31 of this title, and six months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

R. S. 4923; 35 U. S. C. 72. Patent not void for previous use of thing in foreign country. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or dis-

coverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

60 Stat. 943 (sec. 9); 35 U. S. C. 109. Establishment of date of invention by reference to knowledge or use in foreign country: In proceedings in the Patent Office and in the courts of the United States an applicant for a patent for an invention, discovery, or a design, or a patentee, shall not be permitted to establish the date of invention or discovery by reference to knowledge or use thereof, or other activity with respect thereto, in a country foreign to the United States, other than the filing in a foreign country of an application for a patent for the same invention, discovery, or design which, in accordance with the provisions of section 32 of this title, or in accordance with and subject to the provisions of sections 101–114 of this title, is entitled to have the same force and effect as it would have had if filed in the United States on the date on which it was filed in such foreign country: *Provided*, That where an invention was made by a person, civil or military, during the time such person was domiciled in the United States or its possessions and was serving in a foreign country in connection with the prosecution of the war on behalf of the United States or its allies, the inventor thereof shall be entitled, in interference and other proceedings arising in connection with such invention, to the same rights of priority with respect to such invention as if the same had been made in the United States.

R. S. 480; 35 U. S. C. 4. Restrictions on officers and employees of Patent Office as to interest in patents. All officers and employees of the Patent Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the office.

THE APPLICATION

51. General requisites of an application. Applications for patents must be made to the Commissioner of Patents. A complete application comprises:

(a) A petition or request for a patent, see rule 61.
(b) A specification, including a claim or claims, see rules 71 to 77.
(c) An oath, see rule 65.
(d) Drawings, when necessary, see rules 81 to 88.
(e) The prescribed filing fee. (See rule 21 for filing fees.)

[*Rule 30*]

52. Language, paper, writing, margins. (a) The petition, specification, and oath must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink.

(b) The specification and claims, and also papers subsequently filed, must be plainly written on but one side of the paper. A wide margin must be reserved on the left-hand side and on the top of each page and the lines must not be crowded too closely together. Legal paper, 8 to 8½ by 12½ to 13 inches, typewritten and double spaced

with margins of one and one-half inches on the left-hand side and top is deemed preferable. Typewritten or printed papers suitable for use by the Office may be required if the papers originally filed are not correctly, legibly and clearly written.

(c) Any interlineation, erasure or cancellation or other alteration made before the application was signed and sworn to should be clearly referred to in a marginal note or footnote on the same sheet of paper, and initialed or signed and dated by the applicant to indicate such fact. (See rule 56.) [*Rules 30, 45*]

R. S. 488; 35 U. S. C. 12. Printing of papers filed. The Commissioner of Patents may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

53. Application accepted and filed for examination only when complete. An application for a patent will not be accepted and placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

If the papers and parts are incomplete, or so defective that they cannot be accepted as a complete application for examination, the applicant will be notified; the papers will be held six months for completion and, if not by then completed, will be stored as an abandoned incomplete application and eventually destroyed or otherwise disposed of; the fee submitted will be refunded. [*Rule 31, pars. 1, 5*]

54. Parts of application to be filed together. It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. [*Rule 32*]

55. Serial number and filing date of application. Complete applications are numbered in regular order, and the applicant will be informed of the serial number and filing date of the application by a filing receipt. The filing date of the application is the date on which the complete application, acceptable for placing on the files for examination, is received in the Patent Office; or the date on which the last part completing such application is received in the case of an incomplete or defective application completed within six months. [*Rule 31, pars. 3, 4*]

R. S. 4887; 35 U. S. C. 32, second paragraph. Right to filing date of foreign application (right of priority). An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States shall have the same force and effect as

the same application would have if filed in this country on the date on which the application for patent for the same invention, discovery, or design was first filed in such foreign country: *Provided*, That the application in this country is filed within twelve months in cases within the provisions of section 31 of this title, and within six months in case of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on any application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than one year prior to such filing.

60 Stat. 940 (Public Law 690) sec. 1; 35 U. S. C. 101. Priority right for filing applications extended. The rights of priority provided by section 32 of this title, for the filing of applications for patent for inventions, discoveries, and designs, which rights had not expired on the 8th day of September 1939, or which rights have arisen since the 8th day of September 1939, shall be, and the same are, extended until the expiration of a period of twelve months from August 8, 1946, in favor of the citizens of the United States and of citizens or subjects of all countries which have extended, or which on August 8, 1946, extend or which within said period of twelve months shall extend substantially reciprocal privileges to citizens of the United States, and such extension shall apply to applications upon which patents have been granted, as well as to applications pending on August 8, 1946 or filed within the period specified herein: *Provided*, That no such extension shall apply to any patent unless a request in writing was made therefor during the pendency of the application for such patent in the United States Patent Office, or within twelve months after August 8, 1946, which request must be accompanied by (1) a copy of the original foreign application, certified to by the patent office of the country in which it was filed, but if the original foreign application has been destroyed, other evidence pertaining thereto may be accepted; (2) a sworn translation of the same if it is not in the English language; and (3) if the foreign application was not made by the inventor himself, an affidavit by the applicant or patentee stating that such application was filed for his benefit or on his behalf and that such procedure is in accordance with the procedure in the foreign country: *Provided further*, That no patent granted or validated by reason of any such extension shall in any way furnish a basis of claim against the Government of the United States: *Provided further*, That such extension shall in no way abridge or otherwise affect the right of the United States, or of any person, firm, association, company, or corporation, who, before August 8, 1946 was bona fide in possession of any rights in or under patents or applications for patents conflicting with rights in patents granted or validated by reason of such extensions to exercise such rights by itself or himself personally, or by such agents, or licensees as derived their rights from it or him before August 8, 1946, to the extent that they shall not be amenable to any action for infringement of any patent granted or validated by reason of such extension.

A patent shall not be refused on an application coming within the provisions of this section, nor shall a patent granted on such application be held invalid, by reason of the invention having been patented or described in any printed publication or in public use or on sale in the United States more than one year prior to the filing of the application in the United States, unless such patent or publication or such public use or sale was prior to the filing of the foreign application upon which the right of priority is based.

60 Stat. 940 (Public Law 690) sec. 10; 35 U. S. C. 110. Term of patent issued

under extension of time provisions. No patent for an invention or a discovery granted under the provisions of sections 101 or 103 of this title shall extend for a longer term than twenty years from the filing date of the first application regularly filed in any country disclosing the same invention, and in no event for a period in excess of seventeen years from the date of the grant of such patent.

61 Stat. 413 (Public Law 220); 35 U. S. C. 101 note. Further extension of priority right. The period of extension of priority rights under section 1 of Public Law 690, Seventy-ninth Congress, approved August 8, 1946 [section 101 of this title], and the time for the payment of any fee or the taking of any other action under section 3 of said Act [section 103 of this title], specified as expiring twelve months after the passage of that Act [August 8, 1946], shall be further extended to a date not later than February 29, 1948, in favor of citizens of the United States and citizens or subjects of countries which grant or shall grant before February 29, 1948, substantially reciprocal privileges to citizens of the United States for such extended term, subject to the provisions of said Public Law 690 [sections 101–114 of this title].

61 Stat. 794 (Public Law 380) sec. 2; 35 U. S. C. 101 note. Extension of priority right to certain nationals. The rights of priority and the times for the taking of any action specified in sections 1 and 3 of Public Law 690, Seventy-ninth Congress, approved August 8, 1946 [sections 101 and 103 of this title] which had not expired on December 8, 1941, or which commenced after such date, shall be and are hereby extended until February 29, 1948, in favor of nationals of Italy, Bulgaria, Hungary, and Rumania, subject to the conditions and limitations specified in sections 1, 3, 4, and 10 of said Public Law 690 [sections 101, 103, 104, and 110 of this title]: *Provided, however,* That nothing in this Act shall affect any act which has been or shall be done by virtue of special measures taken under legislative, executive, administrative, or military authority of the United States during World War II.

56. Improper applications. Any application signed or sworn to in blank, or without actual inspection by the applicant, and any application altered or partly filled in after being signed or sworn to, and also any application fraudulently filed or in connection with which any fraud is practiced or attempted on the Patent Office, may be stricken from the files. [*Rule 31, par. 2*]

57. Signatures. The petition, the specification and claim, and the oath, must be signed by the applicant in person. Full names must be given, including the full first name without abbreviation, and the middle initial or name if any.

58. Single signature form. The petition, oath, specification and claim, and power of attorney may be included in a single document and may be excuted by a single signature of the applicant if an approved single signature form supplied by the Office or approved by the Office is used. [*Rule 30A*]

59. Papers of complete application not to be returned. The papers in a complete application will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the

Office will furnish copies at the usual cost. See rule 87 for return of drawing. [*Rule 72, par. 1*]

PETITION

61. Petition. The petition must be addressed to the Commissioner of Patents and must state the name, residence, and post office address of the petitioner and request the grant of a patent; designate by title the invention sought to be patented; contain a reference to the specification for a full disclosure of such invention; and must be signed by the applicant in person.

The power of attorney or authorization of agent may be incorporated in the petition.

In the single signature form, the statements above required for a separate petition do not all appear in the petition paragraph and are differently arranged. (See rule 58.) [*Rule 33*]

THE OATH

65. Oath of applicant. (a) The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement, or of the variety of plant, for which he solicits a patent; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, and shall state of what country he is a citizen and where he resides, and whether he is a sole or joint inventor of the invention claimed in his application. In every original application the applicant must distinctly state under oath that to the best of his knowledge and belief the invention has not been in public use or on sale in the United States for more than one year prior to his application, or patented or described in any printed publication in any country before his invention or more than one year prior to his application, or patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in this country. If any application for patent has been filed in any foreign country by the applicant in this country, or by his legal representative or assigns, prior to his application in this country, he shall state the country or countries in which such application, has been filed, giving the date of such application, and shall also state that no application has been filed in any other country or countries than those mentioned, and if no application for patent has been filed in any foreign country, he shall so state. This oath must be subscribed to by the affiant.

(b) If the application be made by an executor or administrator of a deceased person or the guardian, conservator, or representative of an

insane person, the oath shall state the relationship of the affiant to the inventor and, upon information and belief, the facts which the inventor is required by this rule to make oath to.

(c) An additional oath may be required if the application has not been filed in the Patent Office within a reasonable time after the execution of the original oath.

(d) In the case of applications for patent for inventions to which section 3 of 61 Stat. 794; Public Law 380, August 6, 1947; 35 U. S. C., Supp., 101 note, applies, the oath should include a statement that the invention was not made before January 1, 1946, or was not made before January 1, 1946 in Germany or Japan or in the territory of any other of the Axis Powers or in any territory occupied by the Axis forces. If not included in the oath, a separate affidavit will be required. [*Rule 46*]

R. S. 4892; 35 U. S. C. 35. Oath of applicant. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement, or of the variety of plant, for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, or consul holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States.

66. Officers authorized to administer oaths. (a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, the oath being attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made, except that no oath or affirmation may be administered by any attorney or agent appearing in the case. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, all the application papers, except the drawings,

must be attached together and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbons brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed. [*Rule 47*]

NOTE.—The following provision in the District of Columbia Code, sec. 1–501 (1940 ed.), has been held to apply to notaries wherever appointed, with respect to matters before government departments:

"And provided further, that no notary public shall be authorized to take acknowledgements, administer oaths, certify papers, or perform any official acts in connection with matters in which he is employed as counsel, attorney, or agent or in which he may be in any way interested before any of the departments aforesaid.

67. Supplemental oath for matter not originally claimed. (a) When an applicant presents a claim for matter originally shown or described but not substantially embraced in the statement of invention or claim originally presented, he shall file a supplemental oath to the effect that the subject matter of the proposed amendment was part of his invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned. Such supplemental oath should accompany and properly identify the proposed amendment, otherwise the proposed amendment may be refused consideration.

(b) In proper cases the oath here required may be made on information and belief by an executor or administrator of a deceased person or a guardian, conservator, or representative of an insane person. [*Rule 48*]

SPECIFICATION

71. Detailed description and specification of the invention. (a) The specification must include a written description of the invention or discovery and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full,

clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make, construct, compound, and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode devised by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it. [*Rules 34, 35, 36*]

R. S. 4888; 35 U. S. C. 33. Application for patent; description; claim. Before any inventor or discoverer shall receive a patent for his invention or discovery he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor. No plant patent shall be declared invalid on the ground of noncompliance with this section if the description is made as complete as is reasonably possible.

72. Title of the invention. The title of the invention, which should be as short and specific as possible, should appear as a heading on the first page of the specification.

73. Summary of the invention. A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed.

74. Reference to drawings. When there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different

views by specifying the numbers of the figures, and to the different parts by use of reference letters or numerals (preferably the latter). [*Rule 38*]

75. Claim. (a) The specification must conclude with a claim particularly pointing out and distinctly claiming the part, improvement, or combination which the applicant regards as his invention or discovery.

(b) More than one claim may be presented, provided they differ substantially from each other and are not unduly multiplied.

(c) When more than one claim is presented, they may be placed in dependent form in which a claim may refer back to and further restrict a single preceding claim.

(d) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

See rules 141 to 147 as to claiming different inventions in one application. [*Rule 37*]

76. Signature to the specification. The specification and claim must be signed by the applicant in person. See rules 57 and 58. [*Rule 40*]

77. Arrangement of specification. The following order of arrangement should be observed in framing the specification:

(a) Title of the invention; or a preamble stating the name, citizenship and residence of the applicant and the title of the invention may be used.

(b) Brief summary of the invention.

(c) Brief description of the several views of the drawing, if there are drawings.

(d) Detailed description.

(e) Claim or claims.

(f) Signature. [*Rule 39*]

78. Cross-references to other applications. (a) When an applicant files an application claiming an invention disclosed in a prior filed application of the same applicant, the second application must contain a reference to the prior application, identifying it by serial number and filing date and indicating the relationship of the applications. When an applicant files, or a common assignee owns, two or more applications relating to the same subject matter of invention, with one or more of the applications disclosing unclaimed matter that is disclosed and claimed in another of the applications, the appli-

cations not claiming it must refer to and identify the application claiming it. Cross-references to other related applications may be made when appropriate. See rule 14 (b).

(b) Where two or more applications filed by the same applicant, or owned by the same party, contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention in more than one application. [*Rules 43, 94, par. 5*]

79. Reservation clauses not permitted. A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application. [*Rule 44*]

THE DRAWINGS

81. Drawings required. The applicant for patent is required by statute to furnish a drawing of his invention whenever the nature of the case admits of it; this drawing must be filed with the application. Illustrations facilitating an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views) may also be furnished in the same manner as drawings, and may be required by the Office when considered necessary or desirable. [*Rule 49*]

R. S. 4889, 35 U. S. C. 34 (first sentence). Drawings. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, which shall be filed in the Patent Office; and a copy of the drawing to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

82. Signature to drawing. The drawing must either be signed by the applicant in person or have the name of the applicant placed thereon followed by the signature of the attorney or agent as such. [*Rule 50*]

83. Content of drawing. The drawing must show every feature of the invention specified in the claims. When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith. [*Rule 50*]

84. Standards for drawings. The complete drawing is printed and published when the patent issues, and a copy is attached to the patent. This work is done by the photolithographic process, the sheets of drawings being reduced about one-third in size. In addition,

a reduction of a selected portion of the drawings of each application is published in the Official Gazette. It is therefore necessary for these and other reasons that the character of each drawing be brought as nearly as possible to a uniform standard of execution and excellence, suited to the requirements of the reproduction process and of the use of the drawings, to give the best results in the interests of inventors, of the Office, and of the public. The following regulations with respect to drawings are accordingly prescribed:

(a) *Paper and ink.* Drawings must be made upon pure white paper of a thickness corresponding to two-ply or three-ply Bristol board. The surface of the paper must be calendered and smooth and of a quality which will permit erasure and correction. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(b) *Size of sheet and margins.* The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring down from the marginal line, a space of not less than 1¼ inches is to be left blank for the heading of title, name, number, and date, which will be applied subsequently by the Office in a uniform style.

(c) *Character of lines.* All drawings must be made with drafting instruments or by photolithographic process which will give them satisfactory reproduction characteristics. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and fine or crowded lines should be avoided. Solid black should not be used for sectional or surface shading. Free-hand work should be avoided wherever it is possible to do so.

(d) *Hatching and shading.* Hatching should be made by oblique parallel lines, which may be not less than about one-twentieth inch apart.

Heavy lines on the shade side of objects should be used except where they tend to thicken the work and obscure reference characters. The light should come from the upper left-hand corner at an angle of 45°. Surface delineations should be shown by proper shading, which should be open.

(e) *Scale.* The scale to which a drawing is made ought to be large enough to show the mechanism without crowding when the drawing is reduced in reproduction, and views of portions of the mechanism on a larger scale should be used when necessary to show details clearly; two or more sheets should be used if one does not give sufficient room

to accomplish this end, but the number of sheets should not be more than is necessary.

(f) *Reference characters.* The different views should be consecutively numbered figures. Reference numerals (and letters, but numerals are preferred) must be plain, legible and carefully formed, and not be encircled. They should, if possible, measure at least one-eighth of an inch in height so that they may bear reduction to one twenty-fourth of an inch; and they may be slightly larger when there is sufficient room. They must not be so placed in the close and complex parts of the drawing as to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, at the closest point where there is available space, and connected by lines with the parts to which they refer. They should not be placed upon hatched or shaded surfaces but when necessary, a blank space may be left in the hatching or shading where the character occurs so that it shall appear perfectly distinct and separate from the work. The same part of an invention appearing in more than one view of the drawing must always be designated by the same character, and the same character must never be used to designate different parts.

(g) *Symbols, legends.* Graphical drawing symbols for conventional elements may be used when appropriate, subject to approval by the Office. The elements for which such symbols are used must be adequately identified in the specification. While descriptive matter on drawings is not permitted, suitable legends may be used, or may be required in proper cases, as in diagrammatic views and flow sheets. The lettering should be as large as, or larger than, the reference characters.

(h) *Location of signature and names.* The signature of the applicant, or the name of the applicant and signature of the attorney or agent, should be placed in the lower right-hand corner of each sheet within the marginal line. Signatures of witnesses are not required. The title of the invention must not be placed on the drawing but may be written in pencil below the lower marginal line.

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible, in the order in which they appear. The figures may be plan, elevation, section, or perspective views, and detail views of portions or elements, on a larger scale if necessary may also be used. Exploded views, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When necessary a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view (the

different parts should be identified by the same figure number but followed by the letters, *a*, *b*, *c*, etc., for each part). The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose. Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should center lines be used.

(j) *Arrangement of views.* All views on the same sheet must stand in the same direction and should, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side. The space for a heading must then be reserved at the right and the signatures placed at the left, occupying the same space and position on the sheet as in the upright views and being horizontal when the sheet is held in an upright position. One figure must not be placed upon another or within the outline of another.

(k) *Figure for Official Gazette.* The drawing should, as far as possible, be so planned that one of the views will be suitable for publication in the Official Gazette as the illustration of the invention.

(l) *Extraneous matter.* An agent's or attorney's stamp, or address, or other extraneous matter, will not be permitted upon the face of a drawing, within or without the marginal line, except that the title of the invention in pencil and identifying indicia, to distinguish from other drawings filed at the same time, may be placed below the lower margin.

(m) *Transmission of drawings.* Drawings transmitted to the Office should be sent flat, protected by a sheet of heavy binder's board, or may be rolled for transmission in a suitable mailing tube; but must never be folded. If received creased or mutilated, new drawings will be required.

See rule 152 for design drawings, 165 for plant drawings, and 174 for reissue drawings. [*Rule 52*]

85. Informal drawings. The requirements of rule 84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto may be admitted for purpose of examination, but in such case the drawing must be corrected or a new one furnished, as required. The necessary corrections will be made by the Office upon applicant's request and at his expense. (See rule 21.) [Rule *54*]

86. Draftsman to make drawings. Applicants are advised to employ competent draftsmen to make their drawings.

The Office may furnish the drawings at the applicant's expense as promptly as its draftsmen can make them, for applicants who can not otherwise conveniently procure them. (See rule 21.) [*Rule 55*]

87. Return of drawings. The drawings of an accepted application will not be returned to the applicant except for signature.

A photographic print is made of the drawing of an accepted application.

88. Use of old drawings. If the drawings of a new application are to be identical with the drawings of a previous application of the applicant on file in the Office, or with part of such drawings, the old drawings or any sheets thereof may be used if the prior application is, or is about to be, abandoned, or if the sheets to be used are cancelled in the prior application. The new application must be accompanied by a letter requesting the transfer of the drawings, which should be completely identified.

MODELS, EXHIBITS, SPECIMENS

91. Models not generally required as part of application or patent. Models were once required in all cases admitting a model, as a part of the application, and these models became a part of the record of the patent. Such models are no longer generally required (the description of the invention in the specification, and the drawings, must be sufficiently full and complete, and capable of being understood, to disclose the invention without the aid of a model), and will not be admitted unless specifically called for. [*Rules 56, 57, 58*]

R. S. 4891; 35 U. S. C. 34 (third sentence). Models. In all cases which admit of representation by model, the applicant, if required by the commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

92. Model or exhibit may be required. A model, working model, or other physical exhibit, may be required if deemed necessary for any purpose on examination of the application. [*Rule 59*]

93. Specimens. When the invention is a composition of matter, the applicant may be required to furnish specimens of the composition, and of its ingredients or intermediates, sufficient in quantity for the purpose of experiment. [*Rule 62*]

R. S. 4890; 35 U. S. C. 34 (second sentence). Specimens of ingredients. When the invention or discovery is of a composition of matter, the applicant, if required by the commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

94. Return of models, exhibits or specimens. Models, exhibits, or specimens in applications which have become abandoned, and also in other applications on conclusion of the prosecution, may be returned to the applicant upon demand and at his expense, unless it be deemed necessary that they be preserved in the Office. Such physical exhibits in contested cases may be returned to the parties at their expense. If not claimed within a reasonable time, they may be disposed of at the discretion of the Commissioner. [*Rules 60, 61*]

95. Copies of exhibits. Copies of models or other physical exhibits will not ordinarily be furnished by the Office, and any model or exhibit in an application or patent shall not be taken from the Office except in the custody of an employee of the Office specially authorized by the Commissioner. [*Rule 60*]

EXAMINATION OF APPLICATIONS

101. Order of examination. Applications filed in the Patent Office and accepted as complete applications (rules 53 and 55) are assigned for examination to the respective examining divisions having the classes of inventions to which the applications relate. Applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed.

Applications which have been acted upon by the examiner, and which have been placed by the applicant in condition for further action by the examiner (amended applications) shall be taken up for such action in the order in which they have been placed in such condition (date of amendment). [*Rule 63, pars. 1, 2*]

102. Advancement of examination. Applications will not be advanced out of turn for examination or for further action except as provided by these rules, or upon order of the Commissioner to expedite the business of the Office, or upon a verified showing which, in the opinion of the Commissioner, will justify so advancing it.

Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination; but in this case it shall be the duty of the head of that department to be represented before the Commissioner in order to prevent the improper issue of a patent. (See 29 Stat. 694; 35 U. S. C. 43.) [*Rule 63, pars. 3 and 5*]

103. Suspension of action. Suspension of action by the Office will be granted at the request of the applicant for good and sufficient cause and for a reasonable time specified. Only one suspension may

be granted by the primary examiner; any further suspension must be approved by the Commissioner.

If action on an application is suspended when not requested by the applicant, the applicant shall be notified of the reasons therefor.

Action by the examiner may be suspended by order of the Commissioner in the case of applications owned by the United States whenever publication of the invention by the granting of a patent thereon might be detrimental to the public safety or defense, at the request of the appropriate department or agency. [*Rule 77, pars. 5, 6*]

104. Nature of examination, examiner's action. (a) On taking up an application for examination, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the invention sought to be patented. The examination shall be complete with respect both to compliance of the application with the statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

(b) The applicant will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated and such information or references will be given as may be useful in aiding the applicant to judge of the propriety of continuing the prosecution of his application. [*Rules 65, 66*]

R. S. 4893; 35 U. S. C. 36. Examination of invention and issuing of patent.

On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and, if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the commissioner shall issue a patent therefor.

R. S. 4903; 35 U. S. C. 51. Notice of rejection of claim. Whenever, on examination, any claim for a patent is rejected, the commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the commissioner shall order a reexamination of the case.

105. Completeness of examiner's action. The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable. [*Rule 64*]

106. Rejection of claims. If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

In rejecting claims for want of novelty or for want of invention, the examiner must cite the best references at his command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not obvious, must be clearly explained and each rejected claim specified.

[*Rule 66, par. 1*]

107. Citation of references. If domestic patents be cited, their numbers and dates, the names of the patentees, and the classes of inventions must be stated. If foreign patents be cited, their nationality or country, numbers and dates, and the names of the patentees must be stated, and such other data must be furnished as may be necessary to enable the applicant to identify the patents cited. In citing foreign patents, the number of pages of specification and sheets of drawing must be specified, and in case part only of the patent be involved, the particular pages and sheets containing the parts relied upon must be identified. If printed publications be cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy can be found, shall be given. When a rejection is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons. [*Rule 66, par. 2*]

108. Abandoned and forfeited applications not cited. Abandoned and forfeited applications as such will not be cited as references.

[*Rule 177*]

ACTION BY APPLICANT AND FURTHER CONSIDERATION

111. Reply by applicant. (a) After the Office action, if adverse in any respect, the applicant, if he persist in his application for a patent, must reply thereto and may request re-examination or reconsideration, with or without amendment.

(b) In order to be entitled to reexamination or reconsideration, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors in the examiner's action; the applicant must respond to every ground of objection and rejection in the prior Office action (except that request may be made that objections or requirements as to form not necessary to further consideration

of the claims be held in abeyance until a claim is allowed), and the applicant's action must appear throughout to be a bona fide attempt to advance the case to final action. The mere allegation that the examiner has erred will not be received as a proper reason for such re-examination or reconsideration.

(c) In amending an application in response to a rejection, the applicant must clearly point out the patentable novelty which he thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He must also show how the amendments avoid such references or objections.

See rules 135 and 136 for time for reply. [*Rules 65, 68, par. 1, 69*]

112. Reexamination and reconsideration. After response by applicant (rule 111) the application will be reexamined and reconsidered, and the applicant will be notified if claims are rejected, or objections or requirements made, in the same manner as after the first examination. Applicant may respond to such Office action, in the same manner provided in rule 111, with or without amendment, but any amendments after the second Office action must ordinarily be restricted to the rejection or to the objections or requirements made, and the application will be again considered, and so on repeatedly, unless the examiner has indicated that the action is final. [*Rule 65*]

113. Final rejection or action. (a) On the second or any subsequent examination or consideration, the rejection or other action may be made final, whereupon applicant's response is limited to appeal in the case of rejection of any claim (rule 191) or to amendment as specified in rule 116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (rule 181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each claim so rejected and, if any claim stands allowed, compliance with any requirement or objection as to form.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the case, clearly stating the reasons therefor.

AMENDMENTS

115. Amendment by applicant. The applicant may amend before or after the first examination and action, and also after the second or subsequent examination or reconsideration as specified in rule 112 or when and as specifically required by the examiner. [*Rule 68, par. 1*]

116. Amendments after final action. (a) After final rejection or action (rule 113) amendments may be made canceling claims or complying with any requirement of form which has been made, and amendments presenting rejected claims in better form for consideration on appeal may be admitted; but the admission of any such amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application from its condition as subject to appeal or to save it from abandonment under rule 135.

(b) If amendments touching the merits of the application be presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

(c) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in rule 198, or to carry into effect a recommendation under rule 196. [*Rule 68, pars. 2, 3, 5*]

117. Amendment and revision required. The specification, claims and drawing must be amended and revised when required, to correct inaccuracies of description and definition or unnecessary prolixity, and to secure correspondence between the claims, the specification and the drawing. [*Rule 71*]

118. Amendment of disclosure. In original applications, all amendments of the drawings or specifications, and all additions thereto, must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from or an addition to the original disclosure, cannot be added to the application even though supported by a supplemental oath, and can be shown or claimed only in a separate application. [*Rule 70*]

119. Amendment of claims. The claims may be amended by canceling particular claims, by presenting new claims, or by amending the language of particular claims (such amended claims being in effect new claims). In presenting new or amended claims, the applicant must point out how they avoid any reference or ground of rejection of record which may be pertinent.

121. Manner of making amendments. Erasures, additions, insertions, or alterations of the papers and records must not be made by the applicant. Amendments are made by filing a paper (which should conform to rule 52), directing or requesting that specified amendments be made. The exact word or words to be stricken out

or inserted in the application must be specified and the precise point indicated where the deletion or insertion is to be made.

[*Rule 73, par. 1*]

122. Entry and consideration of amendments. (a) Amendments are "entered" by the Office by making the proposed deletions by drawing a line in red ink through the word or words canceled, and by making the proposed substitutions or insertions in red ink, small insertions being written in at the designated place and larger insertions being indicated by reference.

(b) Ordinarily all amendments presented in a paper filed while the application is open to amendment are entered and considered, subsequent cancellation or correction being required of improper amendments. Untimely amendatory papers may be refused entry and consideration in whole or in part.

123. Amendments to the drawing. (a) No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by the Office. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed. The paper requesting amendments to the drawing should be separate from other papers. The drawing may not be withdrawn from the Office except for signature.

(b) Substitute drawings will not ordinarily be admitted in any case unless required by the Office. [*Rule 72, par. 2*]

124. Amendment of amendments. When an amendatory clause is to be amended, it should be wholly rewritten and the original insertion cancelled, so that no interlineations or deletions shall appear in the clause as finally presented. Matter cancelled by amendment can be reinstated only by a subsequent amendment presenting the cancelled matter as a new insertion. [*Rule 74*]

125. Substitute specification. If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification or claims, or any part thereof, to be rewritten. A substitute specification will ordinarily not be accepted unless it has been required by the examiner. [*Rule 74*]

126. Numbering of claims. The original numbering of the claims must be preserved throughout the prosecution. When claims are cancelled, the remaining claims must not be renumbered. When claims are added by amendment or substituted for cancelled claims, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously

presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant. [*Rule 73, par. 2*]

127. Petition from refusal to admit amendment. From the refusal of the primary examiner to admit an amendment, in whole or in part, a petition will lie to the Commissioner under rule 181.

[*Rule 68, par. 4*]

AFFIDAVITS OVERCOMING REJECTIONS

131. Affidavit of prior invention to overcome cited patent or publication. (a) When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention in this country before the filing date of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, then the patent or publication cited shall not bar the grant of a patent to the applicant, unless the date of such patent or printed publication be more than one year prior to the date on which the application was filed in this country.

(b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photographic or photostatic copies thereof, must accompany and form part of the affidavit or their absence satisfactorily explained. [*Rule 75*]

132. Affidavits traversing grounds of rejection. When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits traversing these references or objections may be received.

[*Rule 76*]

INTERVIEWS

133. Interviews. (a) Interviews with examiners concerning applications and other matters pending before the Office must be had in the examiners' rooms at such times, within office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews for the discussion of the patentability of pending applications will not be had before the first official action thereon. Interviews should be arranged for in advance.

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for response to Office actions as specified in rules 111, 135.

[*Rules 13, 68, par. 1*]

TIME FOR RESPONSE BY APPLICANT; ABANDONMENT OF APPLICATION

135. Abandonment for failure to respond within time limit. (a) If an applicant fails to prosecute his application within six months after the date when the last official notice of any action by the Office was mailed to him, or within such shorter time as may be fixed (rule 136), the application will become abandoned.

(b) Prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last official action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When action by the applicant is a bona fide attempt to advance the case to final action, and is substantially a complete response to the examiner's action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

(d) Prompt ratification or filing of a correctly signed copy may be accepted in case of an unsigned or improperly signed paper.

See rule 7. [*Rules 77, par. 1; 171, par. 2*]

R. S. 4894; 35 U. S. C. 37. Time for prosecuting application; applications regarded abandoned. All applications for patents shall be completed and prepared for examination within six months after the filing of the application, and in de-

fault thereof, or upon failure of the applicant to prosecute the same within six months or such shorter time, not less than thirty days or any extensions thereof, as shall be fixed by the Commissioner of Patents in writing to the applicant after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable. No application shall be regarded as abandoned which has become the property of the Government of the United States and with respect to which the head of any department of the Government shall have certified to the Commissioner of Patents, within a period of three years, that the invention disclosed therein is important to the armament or defense of the United States. Within ninety days, and not less than thirty days before the expiration of any such three-year period the Commissioner of Patents shall, in writing, notify the head of the department interested in any pending application for patent, of the approaching expiration of the three-year period within which any application for patent shall have been pending.

136. Time less than six months. (a) An applicant may be required to prosecute his application in a shorter time than six months, but not less than thirty days, whenever such shorter time is deemed necessary or expedient. Unless the applicant is notified in writing that response is required in less than six months, the maximum period of six months is allowed.

(b) The time for reply, when a time less than six months has been set, will be extended only for good and sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. Only one extension may be granted by the primary examiner in his discretion; any further extension must be approved by the Commissioner. In no case can any extension carry the date on which response to an action is due beyond six months from the date of the action.

[*Rule 77, pars. 2, 3*]

137. Revival of abandoned application. An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee. [*Rule 172*]

138. Express abandonment. An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment, signed by the applicant himself and the assignee of record, if any, and identifying the application. [*Rule 171, par. 1*]

JOINDER OF INVENTIONS IN ONE APPLICATION; DIVISION

141. Different inventions in one application. Two or more independent inventions cannot be claimed in one application; but (a) where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application, and (b) more than one species of an invention, not to exceed three, may be specifically claimed in different claims in one application, if that application also includes an allowable claim generic to all the claimed species. [*Rule 41*]

142. Requirement for division. (a) If two or more inventions are claimed in a single application, and they are of such a nature that a single patent may not be issued to cover them the applicant will be required to limit the claims to whichever invention he may elect, this official action being called a requirement for division. If the divisibility of the inventions be clear, such requirement will be made before any other action on the merits; however, it may be made at any time before final action in the case, at the discretion of the examiner.

(b) Claims to the invention or inventions not elected, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject, however, to reinstatement in the event the requirement for division is withdrawn or overruled. [*Rule 42*]

143. Reconsideration of requirement. (a) If the applicant disagrees with the requirement for division, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor (see rule 111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final.

(b) The requirement for division will be reconsidered on such a request, but will not be repeated and made final without the written approval of an examiner of classification, a copy of which approval shall be supplied to the applicant. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected. [*Rule 42*]

144. Appeal from requirement for division. After a final requirement for division the applicant, in addition to making any response due on the remainder of the action, may appeal from the requirement. The prosecution of claims to the elected invention may be continued during such appeal. Appeal may be deferred until after final action on or allowance of the claims to the invention elected.

Appeal may not be taken if reconsideration of the requirement was not requested. [*Rule 42*]

145. Subsequent presentation of claims for different invention. If, after an Office action on an application, the applicant presents claims directed to an invention divisible from the invention previously claimed, such claims, if the amendment is entered, will be rejected and the applicant will be required to limit the claims to the invention previously claimed. Such rejection and requirement will not be repeated and made final without the written approval of an examiner of classification.

146. Election of species. In the first action on an application containing a generic claim and claims restricted separately to each of more than one species embraced thereby, the examiner, if of the opinion after a complete search on the generic claims that no generic claim presented is allowable, shall require the applicant in his response to that action to elect that species of his invention to which his claims shall be restricted if no generic claim is finally held allowable. However, if such application contains claims directed to more than three species, the examiner may require restriction of the claims to not more than three species before taking any further action in the case. [*Rule 41*]

147. Separate application for invention not elected. The non-elected inventions, those not elected after a requirement for division (rule 142), may be made the subjects of separate applications, which must conform to the rules applicable to original applications and which will be examined in the same manner as original applications. However, if such an application is filed before the original application is patented or becomes abandoned, and if it is identical with the original application as filed, the drawings being identical and the papers constituting an exact copy of the original papers which were signed and executed by the applicant, signing and execution by the applicant may be omitted; such application may consist of the filing fee, a copy of the drawings complying to rules relating to drawings and a certified typewritten copy of the original application as filed, together with a proposed amendment cancelling the irrelevant claims or other matter. [*Rule 42*]

DESIGN PATENTS

151. Rules applicable. The rules relating to applications for patents for other inventions or discoveries are also applicable to applications for patents for designs except as otherwise provided. [*Rule 81*]

R.S. 4929, 4933; 35 U.S.C. 73. Patents for designs; how obtained, regulations applicable. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than one year prior to his application, and not in public use or on sale in this country for more than one year prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had, the same as in cases of inventions or discoveries covered by section 31 of this title, obtain a patent therefor.

All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this title, shall apply to patents for designs.

R.S. 4930; 35 U.S.C. 76. Same; drawings or photographs in lieu of models. The commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

152. Drawing. The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented. [*Rule 84*]

153. Title, description and claim. The title of the design must designate the particular article. No specific description, other than a reference to the drawing, is ordinarily required or permitted. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted. [*Rule 81*]

154. Arrangement of specification. The following order of arrangement should be observed in framing design specifications:

(a) Preamble, stating name and residence of the applicant and title of the design.

(b) Description of the figure or figures of the drawing.

(c) Description, if any.

(d) Claim.

(e) Signature of applicant.

See rule 58. [*Rule 82*]

155. Term of design patent. (a) The petition for a design should specify the term, 3½, 7 or 14 years, for which a design patent is sought; but if no term is specified, or if the term specified is greater than that covered by the fee paid, the application will be accepted as filed for a term corresponding to the fee received, and the applicant so notified.

(b) Where the applicant initially requests that the patent issue for one of the shorter terms, he may, at any time before the application is allowed and passed to issue, upon the payment of the additional sum necessary, amend his application by requesting that the patent be issued for a longer term. In order to afford the applicant an opportunity for making such an amendment and paying the additional sum, the Office may notify him before the application is allowed and passed to issue unless otherwise directed, but failure of the Office to send or of the applicant to receive such notification will not warrant any change in the term requested after the application is allowed and passed to issue. [*Rule 80*]

R.S. 4931; 35 U.S.C. 77. Patents for design; duration. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

PLANT PATENTS

161. Rules applicable. The rules relating to applications for patent for other inventions or discoveries are also applicable to applications for patents for plants except as otherwise provided.

162. Applicant, oath. The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or his executor or administrator, or guardian, as stated in rules 42 and 43). The oath required of the applicant, in addition to the averments required by rule 65, must state that he has asexually reproduced the plant.

163. Specification. The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecendents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced.

Two copies of the specification (including the claim) must be submitted, but only one need be signed and executed; the second copy may be a legible carbon copy of the original.

164. Claim. The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is neither required nor permitted.

165. Drawings. Plant patent drawings are not mechanical drawings and should be artistically and competently executed. Fig-

ure numbers and reference characters need not be employed unless required by the examiner. The drawing must disclose all the distinctive characteristics of the plant capable of visual representation.

The drawing may be in color and when color is a distinguishing characteristic of the new variety, the drawing must be in color. Two copies of color drawings must be submitted. Color drawings may be made either in permanent water color or oil, or in lieu thereof may be photographs made by color photography or properly colored on sensitized paper. The paper in any case must correspond in size, weight and quality to the paper required for other drawings.

166. Specimens. The applicant may be required to furnish specimens of the plant, or its flower or fruit, in a quantity and at a time in its stage of growth as may be designated, for study and inspection. Such specimens, properly packed, must be forwarded in conformity with instructions furnished to the applicant. When it is not possible to forward such specimens, plants must be made available for official inspection where grown.

167. Examination. Applications may be submitted by the Patent Office to the Department of Agriculture for study and report.

Affidavits from qualified agricultural or horticultural experts regarding the novelty and distinctiveness of the variety of plant may be received when the need of such affidavits is indicated.

Executive Order No. 5464, Oct. 17, 1930. Facilitating the consideration of applications for plant patents. I, Herbert Hoover, President of the United States of America, under the authority conferred upon me by act of May 23, 1930 (Public No. 245) [46 Stat. 376], entitled "An act to provide for plant patents," and by virtue of all other powers vested in me relating thereto, do hereby direct the Secretary of Agriculture: (1) to furnish the Commissioner of Patents such available information of the Department of Agriculture, or (2) to conduct through the appropriate bureau or division of the department such research upon special problems, or (3) to detail to the Commissioner of Patents such officers and employees of the department, as the Commissioner may request for the purpose of carrying said act into effect.

REISSUES

171. Application for reissue. An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report, to be placed in the file, and by an offer to surrender the original patent (rule 178). [*Rules 85, 86*]

R. S. 4916; 35 U. S. C. 64. Reissue of defective patents. Whenever any patent is wholly or partly inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a patent for the same invention, and in accordance with the corrected specification, to be reissued to the patentee or to his assigns or legal representatives, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the reissued patent, but insofar as the claims of the original and reissued patents are identical, such surrender shall not affect any action then pending nor abate any cause of action then exisiting, and the reissued patent to the extent that its claims are identical with the original patent shall constitute a continuation thereof and have effect continuously from the date of the original patent. The commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters patent. The specifications and claims in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

172. Applicants, assignees. Reissue applications must be signed and sworn to by the inventors if they be living, and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent. If the inventor is dead, a reissue application may be made by the assignee of the entire interest.

A reissue will be granted to the original patentee, his legal representatives or assigns as the interest may appear. [*Rules 85, 86*]

173. Specification. The specification of the reissue application must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets or otherwise indicated as being deleted; and any additions made by the reissue must be underlined, so that the old and the new specifications and claims may be readily compared. Claims should not be renumbered and the numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification. [*Rule 88*]

174. Drawings. The drawings upon which the original patent was issued may be used in reissue applications if no changes whatso-

ever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings securely mounted by pasting on sheets of drawing board of the size required for original drawing, or an order for the same.

Amendments which can be made in a reissue drawing, that is, changes from the drawing of the patent, are restricted. [*Rules 53, 88*]

175. Reissue oath. Applicants for reissue, in addition to complying with the requirements of the first sentence of rule 65, must also file with their applications a statement under oath as follows:

(a) That applicant verily believes the original patent to be wholly or partly inoperative or invalid, and the reasons why.

(b) When it is claimed that such patent is so inoperative or invalid "by reason of a defective or insufficient specification," particularly specifying such defects or insufficiencies.

(c) When it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new," distinctly specifying the part or parts so alleged to have been improperly claimed as new.

(d) Particularly specifying the errors which it is claimed constitute the inadvertence, accident, or mistake relied upon, and how they arose or occurred.

(e) That said errors arose "without any fraudulent or deceptive intention" on the part of the applicant.

(f) When any reissue claim is broader in any respect than the patent claims, applicant shall explain when and under what circumstances he became aware of the lack of breadth in the patent claims, and shall further explain any delay thereafter up to the filing of such reissue application.

Corroborating affidavits of others may be filed and the examiner may, in any case, require additional information or affidavits concerning the application for reissue and its object. [*Rule 87*]

176. Examination of reissue. An original claim, if re-presented in the reissue application, is subject to re-examination, and the entire application will be examined in the same manner as original applications, subject to the rules relating thereto, excepting that division will not be required. Applications for reissue will be acted on by the examiner in advance of other applications. [*Rule 90*]

177. Reissue in divisions. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon pay-

ment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of rules 83 and 84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner, all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order. [*Rule 89*]

178. Original patent. The application for a reissue must be accompanied by an offer to surrender the original patent. The application should also be accompanied by the original patent, or if the original is lost or inaccessible, by an affidavit to that effect. The application may be accepted for examination in the absence of the original patent or the affidavit, but one or the other must be supplied before the case is allowed. If a reissue be refused, the original patent will be returned to applicant upon his request. [*Rule 91, par. 1*]

179. Notice of reissue application. When an application for a reissue is filed, there will be placed in the file of the original patent a notice stating that an application for reissue has been filed. When the reissue is granted or the reissue application is otherwise terminated, the fact will be added to the notice in the file of the original patent. [*Rule 91, par. 2*]

PETITIONS AND ACTION BY THE COMMISSIONER

181. Petition to the Commissioner. (a) Petition may be taken to the Commissioner (1) from any action or requirement of any examiner in the ex parte prosecution of an application which is not subject to appeal to the Board of Appeals or to the court; (2) in cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) to invoke the supervisory authority of the Commissioner in appropriate circumstances.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, it may be

required that there have been a proper request for reconsideration (rule 111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) No fee is required for a petition to the Commissioner except in the case of a petition to revive an abandoned application (rule 137) or for the delayed payment of a final fee (rule 317).

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay the period for replying to an examiner's action which may be running against an application, nor act as a stay of other proceedings.

(g) Determination of petitions of various kinds may be delegated by the Commissioner to the Supervisory Examiners or to the Solicitor and Law Examiners. [*Rule 142*]

182. Questions not specifically provided for. All cases not specifically provided for in these rules will be decided in accordance with the merits of each case by or under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing. [*Rule 199*]

183. Suspension of rules. In an extraordinary situation, when justice requires, any requirement of these rules which is not a requirement of the statutes may be suspended or waived by the Commissioner in person on petition of the interested party, subject to such other requirements as may be imposed.

184. Reconsideration of cases decided by former Commissioners. Cases which have been decided by one Commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials. [*Rule 147*]

APPEAL TO THE BOARD OF APPEALS

191. Appeal to Board of Appeals. (a) Every applicant for a patent or for reissue of a patent, any of the claims of which have been twice rejected, or who has been given a final rejection (rule 113), and every applicant who has been twice required to divide his application (rule 143), may, upon the payment of the fee required by law, appeal from the decision of the primary examiner to the Board of Appeals within the time allowed for response.

(b) The appeal must identify the rejected claim or claims appealed, and must be signed by the applicant or his duly authorized attorney or agent.

(c) Except as otherwise provided by rules 144 and 206, appeal when taken must be taken from the rejection of all claims under rejection which applicant proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered. [*Rule 133*]

R. S. 482; 35 U. S. C. 7. Examiners in chief; board of appeals. The examiners in chief shall be persons of competent legal knowledge and scientific ability. The Commissioner of Patents, the first assistant commissioner, the assistant commissioners, and the examiners in chief shall constitute a board of appeals, whose duty it shall be, on written petition of the appellant, to review and determine upon the validity of the adverse decisions of examiners upon applications for patents and for reissues of patents and in interference cases. Each appeal shall be heard by at least three members of the board of appeals, the members hearing such appeal to be designated by the commissioner. The board of appeals shall have sole power to grant rehearings.

R. S. 4909; 35 U. S. C. 57. Appeals from primary examiner to Board of Appeals. Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals, having once paid the fee for such appeal.

192. Appellant's brief. The appellant shall, within sixty days from the date of the appeal, or within six months from the date of the action appealed from if such time is later, file a brief of the authorities and arguments on which he will rely to maintain his appeal, including a concise explanation of the invention and a copy of the claims involved, at the same time indicating if he desires an oral hearing.

On failure to file the brief within the time allowed, the appeal shall stand dismissed.

193. Examiner's answer. (a) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to the appellant. If the primary examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he shall so state and a petition from such decision may be taken to the Commissioner as provided in rule 181.

(b) The appellant may file a reply brief directed only to such new points as may be raised in the examiner's answer, within twenty days from the date of such answer. [*Rule 135*]

194. Hearing. If no request for oral hearing has been made by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing, a day of hearing will be set, and due notice thereof given to the appellant. Hearing will be held as stated in the notice, and oral argument will be limited to one-half hour unless otherwise ordered before the hearing begins. [*Rule 137*]

195. Affidavits after appeal. Affidavits or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented. [*Rule 138*]

196. Decision by the Board of Appeals. (a) The Board of Appeals, in its decision, may affirm or reverse the decision of the primary examiner in whole or in part on the grounds and on the claims specified by the examiner. The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the primary examiner on that claim, except as to any ground specifically reversed.

(b) Should the Board of Appeals have knowledge of any grounds not involved in the appeal for rejecting any claim, it may include in its decision a statement to that effect with its reasons for so holding, which statement shall constitute a rejection of the claims. The appellant may submit an appropriate amendment of the claims so rejected or a showing of facts, or both, and have the matter reconsidered by the primary examiner. The statement shall be binding upon the primary examiner unless an amendment or showing of facts not previously of record be made which, in the opinion of the primary examiner, avoids the additional ground for rejection stated in the decision. The applicant may waive such reconsideration before the primary examiner and have the case reconsidered by the Board of Appeals upon the same record before them. Where request for such reconsideration is made the Board of Appeals shall, if necessary, render a new decision which shall include all grounds upon which a patent is refused. The applicant may waive reconsideration by the Board of Appeals and treat the decision, including the added grounds for rejection given by the Board of Appeals, as a final decision in the case.

(c) Should the decision of the Board of Appeals include an explicit statement that a claim may be allowed in amended form, applicant shall have the right to amend in conformity with such statement, which shall be binding on the primary examiner in the absence of new references or grounds of rejection. [*Rule 139*]

197. Action following decision. After decision by the Board of Appeals, the case shall be returned to the primary examiner, subject to the applicant's right of appeal or other review, for such further action by the applicant or by the primary examiner, as the condition of the case may require, to carry into effect the decision.

Any request or petition for rehearing or reconsideration must be filed before the limit of appeal to the U. S. Court of Customs and Patent Appeals expires. (See rule 302, for time for appeal to the court.) [*Rule 141*]

198. Reopening after decision. Cases which have been decided by the Board of Appeals will not be reopened or reconsidered by the primary examiner, except under the provisions of rule 196, without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown. [*Rule 140*]

INTERFERENCES; DEFINITION, PREPARATION, DECLARATION

201. Definition, when declared. (a) An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention and may be instituted as soon as it is determined that common patentable subject matter is claimed in a plurality of applications or in an application and a patent.

(b) An interference will be declared between pending applications for patent or for reissue of different parties when such applications contain claims for substantially the same invention which are allowable in the application of each party, and interferences will also be declared between pending applications for patent, or for reissue, and unexpired original or reissued patents, of different parties, when such applications and patents contain claims for substantially the same invention which are allowable in all of the applications involved, in accordance with the provisions of these rules.

(c) Interferences will not be declared, nor continued, between applications or applications and patents owned by the same party unless good cause is shown therefor. The parties shall make known any and all right, title and interest affecting the ownership of any application or patent involved or essential to the proceedings, not recorded in the Patent Office, when an interference is declared, and of changes in such right, title, or interest, made after the declaration of the interference and before the expiration of the time prescribed for seeking review of the decision in the interference.

[*Rules 93, 94, pars. 1, 5*]

R. S. 4904; 35 U. S. C. 52. Interferences; determination of priority; issue of patent. Whenever an application is made for a patent which, in the opinion of the commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct a board of three examiners of interferences to proceed to determine the question of priority of invention. And the commissioner may issue a patent to the party who is adjudged the prior inventor.

202. Preparation for interference between applications; preliminary inquiry of junior applicant. In order to ascertain whether any question of priority arises between applications which appear to interfere and are otherwise ready to be prepared for interference, any junior applicant may be called upon to state in writing under oath the date and the character of the earliest fact or act, susceptible of proof, which can be relied upon to establish conception of the invention under consideration for the purpose of establishing priority of invention. The statement filed in compliance with this section will be retained by the Patent Office separate from the application file and if an interference is declared will be opened simultaneously with the preliminary statement of the party filing the same. In case the junior applicant makes no reply within the time specified, not less than thirty days, or if the earliest date alleged is subsequent to the filing date of the senior party, the interference ordinarily will not be declared.

[*Rule 93*]

203. Preparation for interference between applications; suggestion of claims for interference. (a) Before the declaration of interference, it must be determined that there is common patentable subject matter in the cases of the respective parties, patentable to each of the respective parties, subject to the determination of the question of priority. Claims in the same language, to form the counts of the interference, must be present or be presented, in each application.

(b) When the claims of two or more applications differ in phraseology, but relate to substantially the same patentable subject matter, the examiner shall, if it has been determined that an interference should be declared, suggest to the parties such claims as are necessary to cover the common invention in the same language. The examiner shall send copies of the letter suggesting claims to the applicant and to the assignee, as well as to the attorney or agent of record in each case. The parties to whom the claims are suggested will be required to make those claims (i. e., present the suggested claims in their applications by amendment) within a specified time, not less than 30 days, in order that an interference may be declared. The failure or refusal of any applicant to make any claim suggested within the time specified, shall be taken without further action as a disclaimer of the invention

covered by that claim unless the time be extended upon a proper showing.

(c) The suggestion of claims for purpose of interference will not stay the period for response to an Office action which may be running against an application, unless the claims are made by the applicant within the time specified for making the claims.

(d) When an applicant presents a claim in his application (not suggested by the examiner as specified in this rule) which is copied from some other application, either for purpose of interference or otherwise, he must so state, at the time he presents the claim and identify the other application. [*Rules 95, par. 1; 96, par. 1; 77, par. 4*]

204. Interference with a patent; affidavit by junior applicant. (a) The fact that one of the parties has already obtained a patent will not prevent an interference. Although the Commissioner has no power to cancel a patent, he may grant another patent for the same invention to a person who, in the interference, proves himself to be the prior inventor.

(b) When the filing date or effective filing date of an applicant is subsequent to the filing date of a patentee, the applicant, before an interference will be declared, shall file an affidavit that he made the invention in controversy in this country, before the filing date of the patentee, or that his acts in this country with respect to the invention were sufficient under the law to establish priority of invention relative to the filing date of the patentee; and, when required, the applicant shall file an affidavit (of the nature specified in rule 131) setting forth facts which would prima facie entitle him to an award of priority relative to the filing date of the patentee. [*Rules 93, 94, par. 1*]

205. Interference with a patent; copying claims from patent. (a) Before an interference will be declared with a patent, the applicant must present in his application copies of all the claims of the patent which also define his invention and such claims must be patentable in the application. If claims cannot be properly presented in his application owing to the inclusion of an immaterial limitation or variation, an interference may be declared after copying the claims excluding such immaterial limitation or variation.

(b) Where an applicant presents a claim copied or substantially copied from a patent, he must, at the time he presents the claim, identify the patent, give the number of the patented claim, and specifically apply the terms of the copied claim to his own disclosure, unless the claim is copied in response to a suggestion by the Office. The examiner will call to the Commissioner's attention any instance of the filing of an application or the presentation of an amendment

copying or substantially copying claims from a patent without calling attention to that fact and identifying the patent. [*Rule 94, par. 3*]

R. S. 4903; 35 U. S. C. 51 (second paragraph). Copying claim of patent. No amendment for the first time presenting or asserting a claim which is the same as, or for substantially the same subject matter as, a claim of an issued patent may be made in any application unless such amendment is filed within one year from the date on which said patent was granted.

206. Interference with a patent; claims improperly copied. (a) Where claims are copied from a patent and the examiner is of the opinion that the applicant can make only some of the claims so copied, he shall notify the applicant to that effect, state why he is of the opinion the applicant cannot make the other claims and state further that the interference will be promptly declared. That applicant may proceed under rule 233, if he desires to further contest his right to make the claims not included in the declaration of the interference.

(b) Where the examiner is of the opinion that none of the claims can be made, he shall state in his action why the applicant cannot make the claims and set a time limit, not less than 30 days, for reply. If, after response by the applicant, the rejection is made final, a similar time limit shall be set for appeal. Failure to respond or appeal, as the case may be, within the time fixed will, in the absence of a satisfactory showing, be deemed a disclaimer of the invention claimed. [*Rules 94, par. 2; 63d, par. 2*]

207. Preparation of interference notices and statements. (a) When an interference is found to exist and the applications are in condition therefor, the primary examiner shall forward the files to the Examiners of Interference, together with notices of interference to be sent to all the parties (as specified in rule 209) disclosing the name and residence of each party and those of his attorney or agent, and of any assignee, and, if any party be a patentee, the date and number of the patent. The notices shall also specify the issue of the interference, which shall be clearly and concisely defined in only as many counts as may be necessary to define the interfering subject matter (but in the case of an interference with a patent all the claims of the patent which can be made by the applicant should constitute the counts), and shall indicate the claim or claims of the respective cases corresponding to the count or counts. If the application or patent of a party included in the interference is a division or continuation of a prior application and the examiner has determined that it is entitled to the filing date of such prior application, the notice to such party shall so state.

(b) The primary examiner shall also forward a statement for the Examiners of Interferences disclosing the applications involved in

interference, fully identified, arranged in the inverse chronological order of the filing of the completed applications, and also disclosing the count or counts in issue and the ordinals of the corresponding claims, the name and residence of any assignee, and the names and addresses of all attorneys or agents, both principal and associate. [*Rule 97*]

208. Conflicting parties having same attorney. Whenever it shall be found that two or more parties whose interests appear to be in conflict are represented by the same attorney or agent, the examiner shall notify each of said principal parties and the attorney or agent of this fact, and shall also call the matter to the attention of the Commissioner. If conflicting interests exist, the same attorney or agent or his associates will not be recognized to represent either of the parties whose interests are in conflict without the consent of the other party or in the absence of special circumstances requiring such representation, in further proceedings before the Patent Office involving the matter or application or patent in which the conflicting interests exist. [*Rule 96, par. 2*]

209. Declaration of interference; mailing of notices. (a) When the notices of interference are in proper form, an examiner of interferences shall assign a number to the interference and add to the notices a designation of the time within which the preliminary statements required by rule 215 must be filed, and shall, pro forma, institute and declare the interference by forwarding the notices to the several parties to the proceeding.

(b) The notices of interference shall be forwarded by the Examiner of Interferences to all the parties, in care of their attorneys or agents; a copy of the notices will also be sent the applicants or patentees in person and, if the application or patent in interference has been assigned, to the assignees. When one of the parties has received a patent, a notice shall be sent to the patentee as well as to the attorney or agent last of record.

(c) When the notices sent in the interest of a patent are returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct. [*Rules 102, 103*]

211. Jurisdiction of interference. Upon the institution and declaration of the interference, as provided in rule 209, the Examiners of Interferences will take jurisdiction of the same, which will then become a contested case.

The primary examiner will retain jurisdiction of the case until the declaration of interference is made. See rule 237 (b).

[*Rules 100, 101*]

212. Suspension of ex parte prosecution. On declaration of the interference, ex parte prosecution of an application is suspended, and amendments and other papers received during the pendency of the interference will not be entered or considered without the consent of the Commissioner, except as provided by these rules. Proposed amendments directed toward the declaration of an interference with another party will be considered to the extent necessary. Ex parte prosecution as to specified matters may be continued concurrently with the interference, on order from or with the consent of the Commissioner. [*Rule 109, par. 2*]

INTERFERENCES: PRELIMINARY STATEMENT

215. Preliminary statement required. Each party to the interference will be required to file a concise preliminary statement giving certain facts and dates, on or before a date fixed by the Office. The preliminary statement must be signed and sworn to by the inventor but in appropriate circumstances, as when the inventor is dead or a showing is made of inability to obtain a statement from the inventor, the preliminary statement may be made by the personal representative or assignee or by someone authorized or entitled to make the statement and having knowledge of the facts. [*Rule 110*]

216. Contents of the preliminary statement. The preliminary statement must state that the applicant made the invention set forth by each count of the interference, and whether the invention was made in the United States or abroad.

(a) When the invention was made in the United States the preliminary statement must set forth as to the invention defined by each count the following facts relating to conception of the invention, and reduction of the invention to practice;

(1) The date upon which the first drawing of the invention was made; if a drawing of the invention has not been made prior to the filing date of the application, it must be so stated.

(2) The date upon which the first written description of the invention was made; if a written description of the invention has not been made prior to the filing date of the application, it must be so stated.

(3) The date upon which the invention was first disclosed to another person; if the invention was not disclosed to another person prior to the filing date of the application, it must be so stated.

(4) The date of the first act or acts susceptible of proof (other than acts of the character specified in subparagraphs (1), (2), and (3)) of this paragraph which, if proven, would establish conception of the invention, and a brief description of such act or acts; if there have been no such acts, it must be so stated.

(5) The date of the actual reduction to practice of the invention; if the invention has not been actually reduced to practice before the filing date of the application, it must be so stated.

(6) The date after conception of the invention when active exercise of reasonable diligence toward reducing the invention to practice began.

(b) The preliminary statement in every case must also set forth:

(1) The serial number and filing date of any prior copending application in the United States by the same applicant, not specified by the examiner in the notice of interference, disclosing the invention set forth by the counts of the interference, the benefit of the filing date of which application may be claimed as the effective filing date of the application or patent involved.

(2) The filing date and country (and number, if known) of any application for the same invention in a foreign country, the filing date of which may be claimed under R. S. 4887; 35 U. S. C. 32, second paragraph.

If a party intends to rely solely on a prior application, domestic or foreign, and on no other evidence, the preliminary statement may so state and may then consist only of the identification of the prior application and need not be signed or sworn to by the inventor.

[*Rule 110*]

217. Contents of the preliminary statement; invention made abroad. When the invention was made abroad the facts specified by rule 216 (a) (1) to (6) are not required, and in lieu thereof there should be stated:

When the invention was introduced into this country by or on behalf of the party, giving the circumstances with the dates connected therewith which are relied upon to establish the fact and, when appropriate, including allegations of activity in this country of the nature of that represented by rule 216 (a) (1) to (6).

If a party is entitled to the benefit of the proviso in 60 Stat. 943, sec. 9; 35 U. S. C. 109, he must so state and his preliminary statement must include allegations of activity abroad corresponding to those required by rule 216 (a) (1) to (6). [*Rule 110*]

218. Time for filing preliminary statement. The time for filing the preliminary statement is ordinarily specified in the notices of interference mailed to the parties (rule 209). If either party require

a postponement of the time for filing his preliminary statement, he shall present a motion, duly served on the other parties, with his reasons therefor, and such motion should be made, if possible, prior to the day previously set. But an examiner of interferences may, in his discretion, extend the time on ex parte request, on stipulation, or upon his own motion. [*Rule 104*]

219. Statements sealed before filing. The statement must be filed in a sealed envelope bearing the name of the party filing it and the number and title of the interference. The envelope should contain nothing but this statement and, if mailed, should be enclosed in an outer envelope. The statements may be opened only by an examiner of interferences. [*Rule 110*]

221. Defective statements. If, on examination, a statement is found to be defective in any particular, the party may be notified of the defects, and a time assigned within which he must cure the same by an amended statement or be restricted in a specified manner; but in no case will the original or amended statement be returned to the party after it has been filed.

If a party shall fail or refuse to file an amended statement, he shall be restricted in the further proceedings in the interference as specified in the notice of the defects. [*Rule 112*]

222. Correction of statement on motion. In case of material error arising through inadvertence or mistake, the statement may be corrected on motion (see rule 243), upon a satisfactory showing that the correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error. [*Rule 113*]

223. Effect of statement. (a) The preliminary statement should be carefully prepared, as each of the parties by whom or on whose behalf it is made will be strictly held in his proofs to the dates set forth therein. This includes joint applicants; a new preliminary statement will not be received in the event the application is amended to remove the names of those not inventors, except by motion under rule 222.

(b) If a party proves any date earlier than alleged in his preliminary statement, such proof will be held to establish the date so alleged and none earlier.

(c) If a party to an interference fails to file a statement, testimony will not be received subsequently from him to prove that he made the invention at a date prior to the filing date of his application.

(d) The preliminary statement can in no case be used as evidence in behalf of the party making it. [*Rules 110, 115, 117*]

224. Reliance on prior application. A party will not be permitted to rely on a prior application to obtain the benefit of its filing date unless the prior application is specified in the notice of interference or is set forth in the preliminary statement. If a prior foreign application is set forth in the preliminary statement, said foreign application cannot be relied upon unless the necessary papers to prove a date of priority under R. S. 4887, 35 U. S. C. 32, second paragraph, are filed within three months, or within such extension of time as may be granted, from the filing of the preliminary statement, if they have not previously been filed. A motion to amend the preliminary statement to recite a prior application may be brought under rule 222 but a copy of such prior application must be served on the opposing party with the motion.

225. Failure of junior party to file statement or to overcome filing date of senior party. If a junior party to an interference fails to file a statement, or if his statement fails to overcome the prima facie case made by the filing date of the application of a senior party, such junior party shall be notified by an examiner of interferences that judgment upon the record will be rendered against him at the expiration of a time fixed by the examiner of interferences, not less than thirty days, unless cause be shown why such action should not be taken. Within this period any of the motions permitted by rules 231 to 236 may be brought, except that motions to dissolve (rule 232) must be limited to such matters as may be considered at final hearing (rule 258), but if a patent is not involved such junior party may file a statement as to his reasons for considering such claim or claims unpatentable, which statement shall be given due consideration by the primary examiner after the termination of the interference before acting on the application of the successful party. If a motion is denied by the primary examiner, the party under order to show cause may, within twenty days from the decision, request that final hearing be set to consider such matters as may be reviewed under rule 258. [*Rule 114*]

226. Notice and access to applications. After the preliminary statements have been received and approved, or the time for filing them has expired, the parties will be notified, and given the serial numbers and filing dates of the applications of each adverse party, including any applications which the parties may be entitled to inspect, and the parties will be permitted to see or obtain copies of each other's applications, except copies of affidavits filed under rules 131

and 202, which shall be and remain sealed until preliminary statements are opened under rule 227. The preliminary statements are resealed by an examiner of interferences and shall not be revealed to the opposing parties except as provided in rule 227.

The notices will also ordinarily specify the motion period (rule 231), the times for taking testimony (rule 251), and the date of final hearing (rules 251, 256), except when an order to show cause is given under rule 225. [*Rule 108*]

227. Access to preliminary statements. (a) The preliminary statements shall not be opened to the inspection of the opposing parties until after all motions under rules 231 to 236 and proceedings respecting the same have been finally disposed of or the time for filing such motions has expired without such a motion having been filed, and the case is in condition for taking of testimony.

(b) A junior party who fails to file a preliminary statement or a party who alleges no date in his preliminary statement earlier than the filing date of the application of another party shall not have access to the preliminary statement of said other party.

(c) If the interference be terminated by dissolution before the preliminary statements have been opened to the inspection of the parties, the preliminary statements will remain sealed.

(d) Unopened statements will be removed from interference files and preserved by the Office, and in no case will such statements be open to the inspection of the opposing party without authority from the Commissioner. [*Rules 111, 112*]

INTERFERENCES: MOTION PERIOD, DISSOLUTION, REFORMATION

231. Motion period. After the preliminary statements have been received and approved, or the time for filing them has expired, a period will be fixed within which the various motions specified in rules 232 to 236 may be brought by the parties. The period, not less than thirty days, will be fixed by an examiner of interferences in the notice referred to in rule 226. In the case of a junior party under order to show cause (rule 225) the period specified for answer to the order is the motion period and such motions may be brought as constitute an answer to the order.

232. Motions to dissolve. (a) Motions to dissolve an interference may be brought on the ground (1) that there has been such informality in declaring the same as will preclude the proper determination of the question of priority of invention, or (2) that the claims forming the counts of the interference are not patentable, or are not patentable to

a particular applicant, while being patentable to another party, or (3) that a particular party has no right to make the claims, or (4) that there is no interference in fact if the interference involves a design or plant patent or application, or if the interference involves a patent, the claims of which have been copied in modified form.

(b) When one of the parties to the interference is a patentee, motions to dissolve on the ground that the counts are unpatentable, may not be brought.

(c) Motions to dissolve on the ground that the counts are unpatentable, or are unpatentable to the party bringing the motion, must be accompanied by a proposed amendment to the application of the moving party cancelling the claims forming the counts of the interference, which amendment shall be entered by the primary examiner to the extent the motion is not denied, after the interference is terminated. [*Rule 122*]

233. Motions to amend. (a) Motions may be brought to amend the interference to put in issue any claims which should be made the basis of interference between the moving party and any other party. When a patent is involved, such claims must be claims of the patent (as provided by rule 205). If the claims are not already in the application of the moving party, the motion must be accompanied by a proposed amendment adding the claims to the application. The preliminary statement for the proposed counts may be required before the motion is considered.

(b) Such motions must, if possible, be made within the time set, but if a motion to dissolve the interference has been brought by another party, such motion may be made within thirty days from the filing of the motion to dissolve, or if the interference is dissolved by the primary examiner on his own motion as provided in rule 237, within 30 days from the date on which the interference was suspended and referred to the primary examiner under rule 237 or the date of the decision if there was no such reference.

(c) Where a party opposes the addition of such claims in view of prior patents or publications, full notice of such patents or publications, applying them to the proposed counts, must be given to all parties at least twenty days prior to the date of hearing.

(d) The proposed claims must be indicated to be patentable in the opinion of the moving party in each of the applications involved in the motion and must, unless they stand allowed, be distinguished from the prior art of record or sufficient other reason for their patentability given. The reason why an additional count is necessary must be stated and when more than one count is proposed, the motion must point out wherein they differ materially from each other and why each proposed count is necessary to the interference. The proposed

claims must also be applied to the disclosure of each application involved in the motion, except as to an application in which the claims already appear and the claims identified as originating therein.

(e) On the granting of such motion and the adoption of the claims by the other parties within a time specified, and after the expiration of the time for filing any new preliminary statements, the primary examiner shall redeclare the interference or shall declare such other interferences as may be necessary to include said claims. A preliminary statement as to the added claims need not be filed if a party states he intends to rely on the original statement. A second motion period will not be set and subsequent motions with respect to such matters as could have been raised during the motion period will not be considered. [*Rule 109*]

234. Motion to include another application. (a) Any party to an interference may bring a motion to add (subject to the provisions of rule 201 (c)) or substitute any other application owned by him, as to the existing issue; or to include any other application or patent owned by him as to any subject matter disclosed in his application or patent involved in the interference and in an opposing party's application or patent in the interference which should be made the basis of interference between himself and such other party.

(b) Such motion are subject to the same conditions and the procedure in connection therewith is the same, so far as applicable, as set forth in rule 233 for motions to amend. [*Rule 109*]

235. Motions relating to burden of proof. Any party may bring a motion to shift the burden of proof on the ground that he is entitled to the benefit of the filing date of an earlier domestic or foreign application, or on the ground that an opposing party is not entitled to the benefit of an earlier application of which he has been given the benefit in the declaration. (See rule 224.) [*Rule 122*]

236. Hearing and determination of motions. (a) The motions specified must contain a full statement of the grounds therefor, and any briefs or memoranda in support thereof or in opposition thereto shall, except as hereinafter provided, be filed in the Patent Office not less than ten days prior to the date of hearing and, if not so filed, consideration thereof may be refused.

(b) If, in the opinion of an examiner of interferences, such motions, and motions of a similar character, be in proper form, they will be set for hearing before the primary examiner, due notice of the day of hearing being given by the Office to all parties. Appearance at the hearing is not required; any party may waive oral hearing and, in lieu of appearance at the hearing but not in addition thereto, file

a reply brief no later than three days following the date of the hearing. If, in the opinion of the examiner of interferences, the motion be not in proper form, or if it be not brought within the time specified and no satisfactory reason given for the delay, it will not be considered and the parties will be so notified. Consideration of matters raised by motion which can be considered at final hearing may, as directed by the Commissioner, be deferred to final hearing.

(c) Setting a motion brought under the provisions of rules 231 to 235 for hearing will act as a stay of proceedings pending the determination of the motion.

(d) In the determination of a motion to dissolve an interference between an application and a patent, the prior art of record in the patent file may be referred to for the purpose of construing the issue.

[*Rules 122, 123, 163*]

237. Dissolution on motion of examiner. (a) If, during the pendency of an interference, a reference or other reason be found which, in the opinion of the primary examiner, renders all or part of the counts unpatentable, the attention of the examiners of interferences shall be called thereto unless the interference is before the primary examiner for determination of a motion. The interference may be suspended and referred to the primary examiner for his determination of the question of patentability, in which case the interference shall be dissolved or continued in accordance with such determination. The consideration of such reference or reason by the primary examiner shall be inter partes as in the case of a motion to dissolve. If such reference or reason be found while the interference is before the primary examiner for determination of a motion, decision thereon may be incorporated in the decision on the motion, but the parties shall be entitled to reconsideration or rehearing if they have not been heard on the matter. (See rule 236.)

(b) Prior to the approval of the preliminary statements and notification of the parties thereof (rule 226), an interference may be withdrawn at the request of the primary examiner, in which event the interference shall be considered as not having been declared.

[*Rule 128*]

238. Addition of new party by examiner. If, during the pendency of an interference, another case appears, claiming substantially the subject matter in issue, the primary examiner may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by an examiner of interferences if no testimony has been taken. If, however, any testimony may have been taken, a notice for the proposed new party, disclosing the issue in interference and the names and addresses of

the interferants and of their attorneys or agents, and notices for the interferants disclosing the name and address of the said party and his attorney or agent, shall be prepared by the primary examiner and forwarded to the examiner of interferences, who shall mail said notices and set a time for stating any objections and at his discretion a time of hearing on the question of the admission of the new party. If the examiner of interferences be of the opinion that the interference should be suspended and the new party added, he shall prescribe the terms for such suspension. [*Rule 129*]

INTERFERENCES: MISCELLANEOUS PROVISIONS

241. Copies of part of application. When an application is involved in an interference in which a part only of the invention is included in the issue, the applicant may file certified copies, one for the record and one for each party, of the part or parts of the specification and drawings, and other papers in the file, which exclude merely the noninterfering disclosure and such copies may be used in the proceedings in place of the complete application. [*Rule 105*]

242. Prosecution by assignee. When on motion duly made and upon satisfactory proof, it shall be shown that, by reason of the inability or refusal of the inventor to take suitable action in an interference, or from other cause, the ends of justice require that an assignee of an undivided interest in the invention be permitted to prosecute the same, it may be so ordered. [*Rule 131*]

243. Motions before the Examiners of Interferences. Motions of a character other than specified in rules 232 to 236 will be determined by an examiner of interferences or the Board of Interference Examiners, as may be deemed appropriate. Such motions shall be made in writing and shall contain a full statement of the action sought and the grounds therefor, and satisfactory proof of any facts required, if necessary, must accompany the motion. Oral hearings will not be held except on order of the examiner of interferences or Board of Interference Examiners. Briefs or memoranda in support of such motions shall accompany the motion. Any reply to the motion, together with any brief or memorandum in support thereof, shall be filed within ten days unless some other date is set by the examiner of interferences. [*Rules 153, 163*]

244. Motions; miscellaneous provisions. (a) Typewritten briefs may be used in connection with all motions. By stipulation of the parties subject to approval or by order of the tribunal before whom

the motion is pending, briefs may be received if filed otherwise than as prescribed.

(b) In oral hearings on motions, the moving parties shall have the right to make the opening and closing arguments. Unless otherwise ordered before the hearing begins, oral arguments will be limited to one-half hour for each party.

(c) Petitions for reconsideration or modification of the decision must be filed within twenty days after the date of the decision.

(d) There is no appeal from decisions rendered on motions, either of the primary examiners or of the examiners of interferences, but the Commissioner may consider on petition any matter involving abuse of discretion or the exercise of his supervisory authority, or such other matters as he may deem proper to consider. Any such petition must comply with rule 181 and, if not filed within twenty days from the decision complained of, may be dismissed as untimely.

[*Rules 124, 153, 163*]

245. Extensions of time. Extensions of time in any case not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension. [*Rules 120, 121*]

246. Stay of proceedings. Except as provided in rule 236, to effect a stay of proceedings, motion should be made before the tribunal having jurisdiction of the interference, who will, sufficient ground appearing therefor, order a suspension of the interference pending the determination of such motion. [*Rule 123*]

247. Service of papers. Every paper filed in the Patent Office in interference cases must be served upon the other parties as provided in rule 248, except the following, (a) the application involved and any papers therein prior to the declaration of the interference, and any application referred to by the examiner in the notice of interference (rule 207) or by the party in a timely filed preliminary statement, (b) preliminary statements, (c) ex parte requests for extension of time to file preliminary statements (rule 218), (d) documentary exhibits introduced at the taking of a deposition, (e) original transcripts of testimony (but copies of the record must be served (rule 253)), (f) statutory disclaimers of entire claims involved in the interference and (g) disclaimers, concessions of priority or abandonments of the invention under rule 262. The specification in certain rules that a designated paper must be served does not imply that other papers, not enumerated above, need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other desig-

nated papers which need not ordinarily be served. Proof of such service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service except as stated in rule 273. [*Rule 153a*]

248. Service of papers; manner of service. Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in either of the following ways: (a) By delivering a copy of the paper to the person served; (b) by leaving a copy at the usual place of business of the person served with someone in his employment; (c) when the person served has no usual place of business, by leaving a copy at his residence, with a member of his family over 14 years of age and of discretion; (d) transmission by first class or registered mail. Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the Official Gazette. [*Rule 154b*]

INTERFERENCES: TRIAL

251. Assignment of times for taking testimony. (a) Times will be assigned in which the junior party shall complete his testimony in chief, and in which the other party shall complete the testimony on his side, and a further time in which the junior party may take rebutting testimony, but he shall take no other testimony. If there be more than two parties to the interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties and to rebut their evidence, and also to meet the evidence of junior parties.

(b) The times for taking testimony will ordinarily be assigned in the notices sent to the parties when the preliminary statements have been received and approved (rule 226). The date for final hearing will ordinarily be set in the same notices. If motions under rules 231 to 236 have been brought and set for hearing, the times will be reassigned after determination thereof.

(c) Testimony shall be taken during the times assigned in accordance with rules 271 et seq. [*Rule 118*]

252. Failure of junior party to take testimony. Upon the filing of a motion for judgment by any senior party to an interference stating that the time for taking testimony on behalf of any junior party has expired and that no testimony has been taken and no other evi-

dence offered by said junior party, an order shall be entered that the junior party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause, judgment shall be so rendered. [*Rule 119*]

253. Copies of the testimony. (a) In addition to the original transcript of the testimony (rules 275 to 278), three true copies of the record of each party must be filed, for the use of the Patent Office, and one true copy of the record must be served upon each of the opposing parties.

(b) These copies of the record may be submitted either in printed or in typewritten form.

(c) These records, whether printed or typewritten, must include the testimony presented by the party filing the same. A copy of the counts of the interference and the preliminary statement required by rule 215 et seq. must be included. Each record must contain an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the exhibits, briefly describing their nature and giving the pages at which they are introduced and offered in evidence, and also the pages where copies of exhibits are shown when such exhibits are copied in the record. The names of the witnesses must appear at the top of the pages over their testimony, and the pages must be consecutively numbered.

(d) The copies of the record for the junior party or parties must be filed and served not less than seventy days before the day for final hearing, and in the case of the senior party not less than fifty days before the day for final hearing, unless otherwise specified by the examiner of interferences.

(e) When the copies of the record are submitted in printed form, they shall be printed in 11-point type and adequately leaded; the paper must be opaque and unglazed; the size of the page shall be 7⅝ by 10¼ inches; the size of the printed matter shall be 4⅛ by 7⅛ inches; and they shall be bound to lie flat when opened. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no such appeal be taken, the twenty-five copies will be returned to the party filing them.

(f) When the copies of the record are submitted in typewritten form, they must be clearly legible copies on opaque, unglazed, durable paper approximately 8½ by 11 inches in size (letter-size) and one of the three copies for the Office must be a ribbon copy. The typing shall be on one side of the paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page.

The sheets shall be bound at their left edges, in such manner to lie flat when opened, in a volume or volumes of convenient size (approximately 100 pages per volume is suggested) provided with covers. Multigraphed or otherwise reproduced copies conforming to the standards specified will be accepted.

(g) The testimony of any party failing to supply copies of his record as specified may be refused consideration. [*Rule 162*]

254. Briefs at final hearing. Briefs at final hearing before the Board of Interference Examiners shall be submitted in printed form, except that when not in excess of fifty legal-size double spaced typewritten pages, or the equivalent thereof and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal size paper may be used and the binding and covers specified are not required. Three copies of each brief must be filed. Unless other dates are set by an examiner of interferences, the brief of the junior party or parties shall be filed not less than forty days, and that of the senior party not less than twenty days, prior to the hearing. Reply briefs, if filed, shall be due not less than ten days before the hearing. [*Rule 163*]

255. Request for findings of fact and conclusions of law. Either party may, in his brief, submit concise proposed findings of fact, supported by specific references to and analysis of the record, and conclusions of law, supported by citation of authorities. The opposing party may in his brief in reply thereto, accept any such proposed findings, or reject any proposed findings giving the reasons therefor, and may likewise submit proposed findings. The Board of Interference Examiners may, in its discretion, adopt the proposed findings in whole or in part.

256. Final hearing. Final hearings will be held by the Board of Interference Examiners on the day appointed at the designated time. If either party appear at the proper time, he will be heard. After the day of hearing, the case will not be taken up for oral argument except by consent of all parties. If the Board of Interference Examiners be prevented from hearing the case at the time specified, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than one

hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the Board of Interference Examiners.

Hearings may be set, advanced, and adjourned, as far as convenient and proper, to meet the wishes of the parties and their attorneys.

Petitions for rehearings or modification of the decision must be filed before the limit of appeal expires.

See rule 302. [*Rule 151*]

257. Burden of proof. The parties to an interference will be presumed to have made their inventions in the chronological order of the filing dates of their applications for patents involved in the interference or the effective filing dates which such applications have been accorded; and the burden of proof will rest upon the party who shall seek to establish a different state of facts.

The termination of the interference by dissolution under rule 232 or 237, without an award of priority, or by an award of priority based solely upon ancillary matters, shall not disturb this presumption, and a party under these circumstances enjoying the status of a senior party with respect to any subject matter of his application shall not be deprived of any claim to such subject matter solely on the ground that such claim was not added to the interference by amendment under rule 233. [*Rule 116*]

258. Matters considered in determining priority. In determining priority of invention, the Board of Interference Examiners will consider only priority of invention on the evidence submitted. Questions of patentability of a claim generally will not be considered in the decision on priority; and neither will the patentability of a claim to an opponent be considered, unless the non-patentability of the claim to the opponent will necessarily result in the conclusion that the party raising the question is in fact the prior inventor on the evidence before the Office, or relates to matters which have been determined to be ancillary to priority and must be considered, but a party shall not be entitled to raise such non-patentability unless he has duly presented and prosecuted a motion under rule 232 for dissolution upon such ground or shows good reason why such a motion was not presented and prosecuted.

The matters raised on a motion relating to the burden of proof (rule 235) may be reviewed at final hearing.

At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue. [*Rules 122, par. 2, 130*]

259. Recommendation by Board of Interference Examiners. The Board of Interference Examiners may, either before or concurrently with their decision on the question of priority, but independently of such decision, direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and which in their opinion establishes the fact that no interference exists, or that there has been irregularity in declaring the same, or which amounts to a bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed if such matters have not been considered before by the examiner, or take other appropriate action. If the case is not so remanded, the primary examiner will, after judgement on priority, consider such matters, unless the same shall have been previously disposed of by the Commissioner. [*Rule 126*]

INTERFERENCES: TERMINATION

261. Termination of interference. An interference will be terminated by judgment of priority after final hearing (rules 251 et seq.), or by judgment on the record as provided by rule 225 or rule 252, or by dissolution as provided by rule 232 or rule 237, or as otherwise provided. [*Rule 125*]

262. Disclaimer, concession, abandonment. (a) An applicant or a patentee involved in an interference may, at any time, file a written disclaimer or concession of priority, or abandonment of the invention, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such an instrument by any party, judgment shall be rendered against him.

(b) An applicant, except an applicant for reissue having a claim or claims from his patent in the interference, may at any time prior to the taking of testimony, and at any time thereafter with the consent of all of the other parties involved, avoid the continuance of the interference as to all counts by filing a written abandonment of the contest or of the application, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such abandonment of the contest or of the application, the interference shall be dissolved as to that party, but such dissolution shall in subsequent proceedings have the same effect with respect to the party filing the same as an adverse award of priority.

(c) Upon a showing of sufficient cause, the disclaimer, or abandonment of the invention, or abandonment of the contest or of the application, above referred to, may be executed and filed by the assignee of

the entire interest. A concession of priority may not be made by an assignee.

(d) Such disclaimer, concession of priority, abandonment of the invention, or abandonment of the contest shall operate without further action as a direction to cancel the claims involved from the application of the party making the same on termination of the interference on the basis thereof. [*Rule 107*]

263. Statutory disclaimer by patentee. The disclaimer referred to in rule 262, when made by a patentee in interference is not a disclaimer under R. S. 4917; 35 U. S. C. 65. If a disclaimer under the statute, see rule 321, which has the effect of canceling the claims from the patent, is made by the patentee, including all assignees as shown by the records of the Patent Office, the interference will be dissolved pro forma.

264. Reissue filed by patentee. If a patentee in interference files an application for reissue during the interference, omitting the claims involved (for the purpose of avoiding the interference), the application will be examined and such examination will include the question of patentability over the issue of the interference and over the application of the other party. The interference will not be terminated unless a reissue is granted excluding claims to the conflicting subject matter, whereupon the interference will be dissolved. If a reissue application is filed for other purposes, it may be held subject to the outcome of the interference. An application for reissue will not be included in the interference on the basis of new claims presented by the reissue unless a motion to that effect is brought during the motion period or any delay adequately explained.

265. Status of claims of defeated applicant after interference. Whenever an award of priority has been rendered in an interference proceeding and the limit of appeal from such decision has expired, the claim or claims constituting the issue of the interference in the application of the defeated or unsuccessful applicant or applicants stand finally disposed of without further action by the examiner and are not open to further ex parte prosecution. [*Rule 132*]

266. Action after interference. After the termination of the interference, the primary examiner will promptly take such action in each of the applications involved as may be necessary. Amendments presented during the interference shall not be entered except as otherwise provided; amendments required to accompany motions to amend shall be entered only to the extent the motion was granted (matter not entered may be subsequently presented by the applicant, subject

to the rules relating to amendments, provided the prosecution of the application is not otherwise closed). The examiner will act on any matter requiring action and call for response to any examiner's action unresponded to.

After judgment of priority, the application of any party may be held subject to further examination, including interference with other applications. [*Rule 96*]

267. Second interference. A second interference between the same parties will not be declared upon another application for patent for the same invention filed by either party. [*Rule 127*]

TESTIMONY IN INTERFERENCES AND OTHER CONTESTED CASES

271. Evidence must comply with rules. Evidence touching the matter at issue which shall not have been taken and filed in compliance with these rules will not be considered in determining the interference or other proceeding. [*Rule 159*]

R. S. 4905; 35 U. S. C. 53. Affidavits and depositions. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

R. S. 4906; 35 U. S. C. 54. Subpoenas to witnesses; subpoenas duces tecum. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpoena for any witness residing or being within such district or Territory, commanding him to appear and testify before any officer in such district or Territory authorized to take depositions and affidavits at any time and place in the subpoena stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpoena is served upon him; and the provisions of section 647 of Title 28 (R. S. 869) relating to the issuance of subpoenas duces tecum shall apply to contested cases in the Patent Office.

R. S. 4907; 35 U. S. C. 55. Witness fees. Every witness duly subpoenaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

R. S. 4908; 35 U. S. C. 56. Failing to attend or refusing to testify. Whenever any witness, after being duly served with such subpoena, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpoena, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself.

272. Manner of taking testimony of witnesses. (a) The testimony of witnesses shall be taken by depositions on oral examination in accordance with these rules.

(b) If the parties so stipulate in writing, deposition may be taken before any person authorized to administer oaths, at any place, upon any notice, and in any manner, and when so taken may be used like other depositions. By agreement of the parties, provided the Commissioner consent, testimony may be taken before an officer or officers of the Patent Office under such terms and conditions as the Commissioner may prescribe.

(c) By agreement of the parties, the testimony of any witness or witnesses of any party, may be submitted in the form of an affidavit by such witness or witnesses. The parties may stipulate what a particular witness would testify to if called, or the facts in the case of any party may be stipulated.

273. Notice of examination of witnesses. Before the depositions of witnesses shall be taken by a party, due notice in writing shall be given to the opposing party or parties, as provided in rule 248, of the time when and place where the depositions will be taken, of the cause or matter in which they are to be used, and of the names and residences of the witnesses to be examined. The opposing party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposing party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived his right to object to such examination for want of notice. Neither party shall take testimony in more than one place at the same time, nor so nearly at the same time that reasonable opportunity for travel from one place of examination to the other cannot be had.

The notice for taking testimony must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, upon the adverse party. Reasonable time must be given therein for such adverse party to reach the place of examination. Such notice shall, with sworn proof of the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not. [*Rule 154 a, b*]

274. Persons before whom depositions may be taken. (a) Within the United States, or within a territory or insular possession of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(b) No such officer who is a relative or employee of either of the parties, or of their attorneys or agents, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise, shall be competent to take depositions, unless with the written consent of all the parties. [*Rule 156*]

275. Examination of witnesses. (a) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition is to be taken.

(b) The testimony shall be taken in answer to interrogatories, with the questions and answers recorded in their regular order by the officer, or by some other person (who shall be subject to the provisions of rule 274 (b)) in the presence of the officer except when his presence is waived on the record by agreement of the parties. The testimony shall be taken stenographically and transcribed, unless the parties present agree otherwise.

(c) In the absence of all opposing parties and their attorneys or agents, testimony may be taken in longhand, typewriting, or stenographically.

(d) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

(e) When the testimony has been transcribed, the deposition shall be carefully read over by the witness, or by the officer to him, and shall then be signed by the witness in the presence of the officer unless the reading and the signature be waived on the record by agreement of all parties. [*Rules 154c, 156*]

276. Certification and filing by officer. The officer shall annex to the deposition his certificate showing: (a) Due administration of the oath by the officer to the witness before the commencement of his testimony; (b) the name of the person by whom the testimony was taken down, and whether, if not taken down by the officer, it was taken down in his presence; (c) the presence or absence of the adverse party; (d) the place, day, and hour of commencing and taking the deposition; (e) that the deposition was read by or to the witness before he signed the same, and that he signed the same in the presence of the officer; and (f) the fact that the officer was not disqualified as specified in rule 274. If any of the foregoing requirements are waived, the certificate shall so state. The officer shall sign the certificate and affix thereto his seal of office, if he have such seal. Unless waived on the record by agreement, he shall then, without delay, securely seal in an

envelope all the evidence, notices, and paper exhibits, inscribe upon the envelope a certificate giving the number and title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the Commissioner of Patents. If the weight or bulk of an exhibit shall exclude it from the envelope, it shall unless waived on the record by agreement of all parties, be authenticated by the officer and transmitted in a separate package, marked and addressed as provided in this rule. [*Rule 154c*]

277. Form of deposition. The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony may be written on legal-size or letter-size paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet. The questions propounded to each witness must be consecutively numbered and each question must be followed by its answer.

The form of the deposition may be such as to facilitate preparation of the copies of the record required by rule 253. [*Rule 155*]

278. Depositions must be filed. All depositions which are taken must be duly filed in the Patent Office. On refusal to file, the Office at its discretion will not further hear or consider the contestant with whom the refusal lies; and the Office may, at its discretion, receive and consider a copy of the withheld deposition, attested by such evidence as is procurable. [*Rule 154f*]

279. Inspection of testimony. After testimony is filed in the Office, it may be inspected by any party to the case, but it cannot be withdrawn for the purpose of printing. It may be printed by someone specially designated by the Office for that purpose, under proper restrictions. [*Rule 161*]

281. Additional time for taking testimony. If either party shall be unable to procure the testimony of a witness or witnesses within the time limited and said time has expired or is about to expire, and desires additional time for such purpose, he must file a motion, accompanied by a statement under oath setting forth specifically the cause of such inability, the name or names of the witness or witnesses, the facts expected to be proved by such witness or witnesses, the steps which have been taken to procure such testimony, and the dates on which efforts have been made to procure it.

See rule 245 for extensions of time. [*Rule 154d*]

282. Official records and printed publications. Official records and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be introduced in evidence

by filing in the Patent Office a notice to that effect, before the closing of the time for taking the testimony of the party (before the time for taking the testimony in chief if such matters are not in rebuttal), specifying the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and accompanied by the record or authenticated copy, or the printed publication or a copy. The notice and copies of the record or publication must be served on each of the other parties.

See rules 216 and 224 for introduction of prior applications, the filing date of which is claimed. [*Rule 154e*]

283. Testimony taken in another interference or action. Upon motion duly made and granted, testimony taken in another interference proceeding, or testimony taken in a suit between the same parties or those in interest, may be used in an interference proceeding, so far as relevant and material, subject, however, to the right of any contesting party to recall or demand the recall of witnesses whose testimony has been taken, and to take other testimony in rebuttal of the testimony. [*Rule 157*]

284. Testimony taken in foreign countries. Upon motion duly made and granted, testimony may be taken in foreign countries, upon complying with the following requirements:

(a) The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a statement under oath that the motion is made in good faith, and not for the purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses, the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.

(b) It must appear that the testimony desired is material and competent, and that it can not be taken in this country at all, or can not be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.

(c) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness, and serve a copy of the same upon each adverse party, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the depositions are taken, and such objections will be considered and determined upon the hearing of the case.

(d) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the Commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answer thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the Commissioner of Patents with the certificate prescribed in rule 276.

(e) By stipulation of the parties the requirements of paragraph (c) of this rule as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties, their attorneys or their agents.

(f) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury under the laws of the foreign state in which it shall be taken, it will not stand on the same footing in the Patent Office as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case. [*Rule 158*]

285. Effect of errors and irregularities in depositions. Notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof.

(a) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless objection is promptly made and served in writing upon the party giving the notice.

(b) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) *As to taking of deposition.* (1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(d) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. [*Rule 159*]

286. Objections to admissibility. Subject to the provisions of rule 285, objection may be made to receiving in evidence any deposition or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence according to the established rules of evidence, which will be applied strictly by the Office. [*Rule 159*]

PROTESTS AND PUBLIC USE PROCEEDINGS

291. Protests to the grant of a patent. The patent statutes do not provide for opposition to the grant of a patent on the part of the public. Protests to the grant of a patent are ordinarily merely acknowledged, and filed after being referred to the examiner having charge of the subject matter involved for his information.

[*Rule 11, par. 1*]

292. Public use proceedings. (a) When a petition for the institution of public use proceedings, supported by affidavits, is filed by one having information of the pendency of an original application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by rules 271 to 286. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompanying papers should be filed in duplicate, or served upon the applicant, his attorney or agent of record, and petitioner should offer to bear any expense to which the Office may be put in connection with the proceeding. [*Rule 11, pars. 2, 3*]

APPEAL TO THE U. S. COURT OF CUSTOMS AND PATENT APPEALS

301. Appeal to court. Any applicant dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Interference Examiners, may appeal to the U. S. Court of Customs and Patent Appeals. The appellant must take the following steps in such an appeal: (a) In the Patent Office, give notice to the Commissioner and file the reasons of appeal (see rule 302); (b) in the court, file a petition of appeal and a certified transcript of the record within a specified time after filing the reasons of appeal, and pay the fee for appeal, as provided by the rules of the court. [*Rule 148*]

R. S. 4911; 35 U. S. C. 59a. Appeal; to court. If any applicant is dissatisfied with the decision of the board of appeals, he may appeal to the United States Court of Customs and Patent Appeals, in which case he waives his right to proceed under section 63 of this title. If any party to an interference is dissatisfied with the decision of the board of interference examiners, he may appeal to the United States Court of Customs and Patent Appeals: *Provided*, That such appeal shall be dismissed if any adverse party to such interference shall, within twenty days after the appellant shall have filed notice of appeal according to section 60 of this title, file notice with the Commissioner of Patents that he elects to have all further proceedings conducted as provided in section 63 of this title. Thereupon the appellant shall have thirty days thereafter within which to file a bill of equity under said section 63, in default of which the decisions appealed from shall govern the further proceedings in the case.

R. S. 4912; 35 U. S. C. 60. Same; notice of appeal. When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall give notice thereof to the commissioner, and file in the Patent Office, within such time as the commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

R. S. 4913; 35 U. S. C. 61. Same; proceedings on appeal. The court shall, before hearing such appeal, give notice to the commissioner of the time and place of the hearing, and on receiving such notice the commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal.

R. S. 4914; 35 U. S. C. 62. Same; determination of appeal; revision of decision below. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

302. Notice and reasons of appeal. When an appeal is taken to the U. S. Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within sixty days from the date of the decision appealed from, his reasons of appeal specifically set forth in writing. If a petition for rehearing or reconsideration is filed within thirty days after said decision, the notice of appeal may be given and the reasons of appeal filed within thirty days after action on the petition. No petition for rehearing or reconsideration filed more than thirty days after such decision, nor any proceedings on such petition, shall operate to extend the period of sixty days hereinabove provided for appeal.

In interferences and other contested cases, the notice and reasons must be served as provided in rule 248. [*Rule 149, par. 1*]

CIVIL ACTION UNDER R. S. 4915

305. Civil action under R. S. 4915. (a) From adverse decisions by the Board of Appeals in ex parte cases, and from decisions of the Board of Interference Examiners, the appellant, if an applicant, has the option of proceding under R. S. 4915; 35 U. S. C. 63 instead of appealing to the U. S. Court of Customs and Patent Appeals.

(b) If an applicant in an ex parte case has taken an appeal to the U. S. Court of Customs and Patent Appeals, he thereby waives his right to proceed under R. S. 4915, 35 U. S. C. 63.

(c) If a defeated applicant to an interference proceeding has taken an appeal to the U. S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (rule 302), file notice with the Commissioner that he elects to have all further proceedings conducted as provided in R. S. 4915; 35 U. S. C. 63, certified copies of such notices will be transmitted to the U. S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in rule 248.

[*Rule 149, pars. 2, 3, 4*]

R. S. 4915; 35 U. S. C. 63. Bill in equity to obtain patent. Whenever a patent on application is refused by the Board of Appeals or whenever any applicant is dissatisfied with the decision of the board of interference examiners, the applicant, unless appeal has been taken to the United States Court of Customs and Patent Appeals, and such appeal is pending or has been decided, in which case no action may be brought under this section, may have remedy by bill in equity, if filed within six months after such refusal or decision; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, map adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the commissioner to issue such patent on

the applicant filing in the Patent Office a copy of the adjudication and otherwise complying with the requirements of law. In all cases where there is no opposing party a copy of the bill shall be served on the commissioner; and all the expenses of the proceedings shall be paid by the applicant, whether the final decision is in his favor or not. In all suits brought hereunder where there are adverse parties the record in the Patent Office shall be admitted in whole or in part, on motion of either party, subject to such terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court may impose, without prejudice, however, to the right of the parties to take further testimony. The testimony and exhibits, or parts thereof, of the record in the Patent Office when admitted shall have the same force and effect as if originally taken and produced in the suit.

44 Stat. 1394; 35 U. S. C. 72a. Jurisdiction of District Court of the United States for the District of Columbia where adverse parties reside in plurality of districts or foreign countries; service of writs. Upon the filing of a bill in the district court of the United States for the District of Columbia wherein remedy is sought under section 63 or section 66 of this title, without seeking other remedy, if it shall appear that there is an adverse party residing in a foreign country, or adverse parties residing in a plurality of districts not embraced within the same State, the court shall have jurisdiction thereof and writs shall, unless the adverse party or parties voluntarily make appearance, be issued against all of the adverse parties with the force and effect and in the manner set forth in section 113 of Title 28; provided that writs issued against parties residing in foreign countries pursuant to this section may be served by publication or otherwise as the court shall direct. (Mar. 3, 1927, ch. 364, 44 Stat. 1394; June 25, 1936, ch. 804, 49 Stat. 1921.)

ALLOWANCE AND ISSUE OF PATENT

311. Notice of allowance. If, on examination, it shall appear that the applicant is justly entitled to a patent under the law, a notice of allowance will be sent him, his attorney or his agent, calling for the payment of the final fee within six months from the date of such notice of allowance. Upon the receipt of the fee within the time fixed by law, the patent will be prepared for issue. In cases in which no final fee is due (designs, reissues, and patents issued under the act of April 30, 1928, 45 Stat. 467; 35 U. S. C. 45), the patent will be prepared for issues in due course after the notice of allowance is sent.

[*Rule 164*]

312. Amendments after allowance. Amendments after the notice of allowance of an application will not be permitted as a matter of right, but may be made, if the printing of the specification has not begun, on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

[*Rule 78*]

313. Withdrawal from issue. After the notice of allowance of an application is sent, the case will not be withdrawn from issue except

by approval of the Commissioner, and if withdrawn for further action on the part of the Office, a new notice of allowance will be sent if the application is again allowed. When the final fee has been paid, and the patent to be issued has received its date and number, the application will not be withdrawn from issue on account of any mistake or change of purpose of the applicant, his attorney or his agent, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reasons except mistake on the part of the Office, or because of fraud or illegality in the application, or for interference. Express abandonment of the application (rule 138) may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue. [*Rule 165*]

314. Issuance of patent. Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the date on which the application was allowed and the notice of allowance sent; and if the final fee be not paid within that period, the patent shall be withheld. In the absence of request to suspend issue of the patent up to three months, the patent will issue in regular course in about one month. The issue closes weekly on Thursday, and the patents ordinarily bear date as of the fourth Tuesday thereafter. [*Rule 167*]

315. Delivery of patent. The patent will be delivered or mailed on the day of its date to the attorney or agent of record, if there be one; or if the attorney or agent so request, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so request.

[*Rule 169*]

316. Forfeited application. A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See rule 314.)

A forfeited application is not considered as pending while forfeited, and, if the final fee is not subsequently paid and accepted as provided in rule 317, the application is abandoned, as of the date it became forfeited. [*Rules 174, 178*]

317. Delayed payment of final fee. The Commissioner of Patents may, in his discretion, receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue as specified in rule 314. Each petition for the delayed payment of the final fee shall be accompanied by the final fee and the petition fee, and a verified statement in support of the petition.

[*Rule 175*]

R. S. 4883; 35 U. S. C. 39. Patents, how issued, attested, and recorded. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall either be signed by the Commissioner of Patents or have his name printed thereon and attested by an Assistant Commissioner of Patents or by one of the law examiners duly designated by the commissioner, and shall be recorded, together with the specifications, in the Patent Office in books to be kept for that purpose.

R. S. 4884; 35 U. S. C. 40. Same; contents and duration. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery (including in the case of a plant patent the exclusive right to asexually reproduce the plant) throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

R. S. 4885; 35 U. S. C. 41. Same; time of issue; payment of final fee; withholding patent. Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the time at which the application was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld: *Provided, however,* That the Commissioner of Patents may in his discretion receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue.

DISCLAIMER

321. Statutory disclaimer in patent. A disclaimer under R. S. 4917; 35 U. S. C. 65, must comply with the requirements of the statute and must also identify the patent, specify that the claiming of more than the patentee had a right to claim occurred through inadvertence, accident or mistake and without any fraudulent or deceptive intention, identify the claim or claims subject to the disclaimer, and be signed by the person making the disclaimer. Such disclaimers are not examined except as to formal matters, but a disclaimer observed not to be a disclaimer in fact may be refused, and the recording of a disclaimer does not indicate that it is considered by the Patent Office to be proper or valid or that the patent after disclaimer, or any claim thereof, is considered valid. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. See rule 21 for fee for disclaimer. [*Rule 181*]

R. S. 4917; 35 U. S. C. 65. Disclaimer. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make

disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

CORRECTION OF ERRORS IN PATENT

322. Certificate of correction. A certificate of correction under the act of March 4, 1925, 43 Stat. 1268, 35 U. S. C. 88, may be issued at the request of the patentee or his assignee and endorsed on the patent itself. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording him an opportunity to be heard.

If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Commissioner, with the consent of the patentee (or assignee of record, if any) may issue a reissued patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

[*Rule 170, par. 1*]

43 Stat. 1268, sec. 1; 35 U. S. C. 88. Mistake in patent; certificate thereof issued by Patent Office; effect. Whenever a mistake in a patent, incurred through the fault of the Patent Office, is clearly disclosed by the records or files of the office, a certificate stating the fact and nature of such mistake, signed by the Commissioner of Patents and sealed with the seal of the Patent Office, may be issued, without charge, and recorded in the records of patents, and a printed copy thereof attached to each printed copy of the patent, and such certificate shall thereafter be considered as part of the original, and every patent, together with such certificate, shall have the same effect and operation in law on the trial of all actions for causes thereafter arising as if the same had been originally issued in such corrected form. All such certificates issued prior to March 4, 1925, in accordance with the rules of the Patent Office and the patent to which they are attached shall have the same force and effect as if such certificates had been specifically authorized by statute. (Mar. 4, 1925, ch. 535, sec. 1, 43 Stat. 1268.)

323. Other mistakes not corrected. Mistakes not incurred through the fault of the Office, and not affording legal grounds for reissue, will not be corrected after the date of the patent.

Changes or corrections will not be made in a patent after the date thereof except as provided in rule 322. [*Rule 170, pars. 2, 3*]

331. Recording of assignments. (a) Assignments, including grants and conveyances, of patents or applications for patents under R. S. 4898; 35 U. S. C. 47, will be recorded in the Patent Office in books kept for that purpose. Other instruments affecting title to a patent or application for patent, and licenses, even though the recording thereof may not serve as constructive notice under R. S. 4898, will be recorded as provided in this rule or in the discretion of the Commissioner.

(b) No instrument will be recorded which is not in the English language and which does not amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates, and which does not identify the patent or application to which it relates, except as ordered by the Commissioner.

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to an application should identify the application by serial number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given) but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before its serial number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended. [*Rule 186*]

R. S. 4898; 35 U. S. C. 47. Assignment of patents and applications; evidence of execution. Every application for patent or patent or any interest therein shall be assignable in law by an instrument in writing, and the applicant or patentee or his assigns or legal representatives may in like manner grant and convey a exclusive right under his application for patent or patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice unless it is recorded in the Patent Office within three months from the date thereof or prior to such subsequent purchase or mortgage.

If any such assignment, grant, or conveyance of any application for patent or patent shall be acknowledge before any notary public of the several States or Territories or the District of Columbia, or any commissioner of any court of the United States for any district or Territory, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section 131 of Title 22 the certificate of such acknowledgement, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant, or conveyance.

332. Receipt and recording. The receipt of assignments is generally acknowledged by the Office. They are recorded in regular order as promptly as possible, and then transmitted with the date of record and Liber and Page number stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the full legal fee for recording. [*Rules 188, 189*]

333. Conditional assignments. Assignments which are made conditional on the performance of certain acts or events, as the payment of money or other condition subsequent, if recorded in the Office are regarded as absolute assignments for Office purposes until canceled with the written consent of both parties or by the decree of a competent court. The Office has no means for determining whether such conditoons have been fulfilled. [*Rule 187*]

334. Issue of patent to assignee. In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee; and if the assignee hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee; if it is desired that the patent so issue the assignment in either case must first have been recorded, and at a day not later than the date of the payment of the final fee; in the case of an application for reissue, the assignment must be recorded before the case is allowed; in the case of an application for a design patent, the assignment must be recorded at least ten days before the case is allowed. [*Rules 26, 188*]

R. S. 4895; 35 U. S. C. 44. Issue of patent to assignee. Patents may be granted and issued or reissued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application must be made and the corrected specification signed by the inventor or discoverer, if he is living.

RECOGNITION OF ATTORNEYS AND AGENTS

341. Registration of attorneys and agents. A register of attorneys and a register of agents are kept in the Patent Office on which are entered the names of all persons recognized as entitled to represent applicants before the Patent Office in the preparation and prosecution of applications for patent. Registration in the Patent Office under the provisions of these rules shall only entitle the persons registered to practice before the Patent Office. [*Rule 17*]

(a) *Attorneys at law.* Any attorney at law in good standing admitted to practice before any United States Court or the highest court of any State or Territory of the United States who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of attorneys. [*Rule 17a*]

(b) *Agents.* Any citizen of the United States not an attorney at law who fulfills the requirements and complies with the provision of these rules may be admitted to practice before the Patent Office and have his name entered on the register of agents. [*Rule 17c*]

NOTE: All persons registered prior to November 15, 1938, were registered as attorneys, whether they were attorneys at law or not, and such registrations have not been changed.

(c) *Requirements for registration.* No person will be admitted to practice and registered unless he shall apply to the Commissioner of Patents in writing on a prescribed form supplied by the Commissioner and furnish all requested information and material; and shall establish to the satisfaction of the Commissioner that he is of good moral character and of good repute and possessed of the legal and scientific and technical qualifications necessary to enable him to render applicants for patents valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office. In order that the Commissioner may determine whether a person seeking to have his name placed upon either of the registers has the qualifications specified, satisfactory proof of good moral character and repute, and of sufficient basic training in scientific and technical matters must be submitted and an examination which is held from time to time must be taken and passed. The taking of an examination may be waived in the case of any person who has served for three years in the examining corps of the Patent Office. [*Rule 17e*]

(d) *Registration of firms.* Any firm, the individual members of which are each registered on the register of attorneys, may have its name entered upon the register of attorneys. Any firm, one of the individual members of which is registered on the register of agents and each of the remaining individual members are registered either on the register of attorneys or the register of agents, may have its name entered on the register of agents. If the membership of the firm is changed, application must be made for registration of the firm as changed. [*Rule 17b, d*]

(e) *Foreign patent attorneys and agents.* Any foreign patent attorney or agent not a resident of the United States who shall file proof

to the satisfaction of the Commissioner that he is registered and in good standing before the patent office of the country in which he resides and practices, and is possessed of the qualifications stated in paragraph (c) of this rule, may be registered on the register of agents as entitled to represent applicants located in such country before the United States Patent Office in the presentation and prosecution of applications: *Provided*, That the patent office of such country allows substantially reciprocal privileges to those admitted to practice before the United States Patent Office. Such registration shall continue only during the period that the conditions specified obtain.

[*Rule 17f*]

(f) *Government employees.* Officers and employees of the United States who are disqualified by statute (18 U. S. C. 281) from practicing as attorneys or agents in proceedings or other matters before government departments or agencies, may not be registered, and if any registered attorney or agent becomes such an officer or employee, his name on the register shall be endorsed as inactive during the period of such employment, but officers or employees whose official duties require the preparation and prosecution of applications for patent may be registered (on compliance with these rules) or recognized to practice, to the extent necessary to carry out their official duties.

18 U.S.C. 281. Criminal Code. Members of Congress, officers and others practicing for compensation in matters affecting the Government. Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, or the head of a department, or other officer or employee of the United States or any department or agency thereof, directly or indirectly receives or agrees to receive, any compensation for any services rendered or to be rendered, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter in which the United States is a party or directly or indirectly interested, before any department, agency, court martial, officer, or any civil, military or naval commission, shall be fined not more than $10,000 or imprisoned not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

Retired officers of the Army, Navy, Marine Corps, and Coast Guard of the United States, while not on active duty, shall not by reason of their status as such be subject to the provisions of this section. Nothing herein shall be construed to allow any retired officer to represent any person in the sale of anything to the Government through the department in whose service he holds a retired status.

This section shall not apply to any person because of his membership in the National Guard of the District of Columbia nor to any person specially excepted by Act of Congress.

(g) *Former examiners.* No person who has served in the examining corps of the Patent Office will be registered after termination of his services, nor, if registered before such service, be reinstated, unless he undertakes (1) not to prosecute or aid in any manner in the prosecution of any application pending in any examining divi-

sion in which he served, on the date he left said division; and (2) not to prepare or prosecute nor to assist in any manner in the preparation or prosecution of any application of another filed within two years after the date he left such division, and assigned to such division, without the specific authorization of the Commissioner. Associated and related classes in other divisions may be required to be included in the undertaking or designated classes may be excluded. In case application for registration or reinstatement is made after resignation from the Office, the applicant will not be registered, or reinstated, if he has prepared or prosecuted, or assisted in the preparation or prosecution of any such application as indicated in this paragraph.

(h) *Oath and registration fee.* Before his name may be entered on the register of attorneys or on the register of agents, every applicant for registration must, after his application is approved, subscribe and swear to an oath prescribed by the Commissioner of Patents and pay the prescribed registration fee (see rule 21). [*Rule 17j*]

(i) *Committee on Enrollment.* The Commissioner may establish a Committee on Enrollment to receive and act upon applications for registration to practice before the Patent Office, to conduct and supervise the examinations provided for in paragraph (c) of this rule, to maintain the registers and to perform such other duties in connection with enrollment and recognition of attorneys and agents as may be necessary; or such functions may be performed by designated officials of the Patent Office. Any action of such committee or official may be reviewed by the Commissioner.

342. Limited recognition. Any person not registered and not entitled to be recognized under rule 341 as an attorney or agent to represent applicants generally may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent a specified application or applications, but this limited recognition shall not extend further than the application or applications specified. [*Rule 17g*]

343. Persons not registered or recognized. No person or firm not registered or specifically recognized as provided in rule 342 will be permitted to prosecute applications of others before the Patent Office. [*Rule 17h*]

344. Professional conduct. Attorneys and agents appearing before the Patent Office must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts of the United States.

345. Advertising. Every attorney and agent registered to practice before the United States Patent Office shall submit to the Commissioner of Patents for approval copies of all proposed advertising matter, circulars, letters, cards, etc., intended to solicit patent business, and if it be not disapproved by him and the attorney or agent so notified within ten days after submission, it may be considered approved.

No registered agent shall, in advertising matter or in papers filed in the Patent Office, represent himself to be an attorney, solicitor, or lawyer.

Any registered attorney or agent sending out or using any such matter, a copy of which has not been submitted to the Commissioner of Patents in accordance with this rule, or which has been disapproved by the Commissioner of Patents, and any registered agent misrepresenting his status shall be subject to suspension or disbarment.

[*Rule 17i*]

346. Signature and certificate of attorney. Every paper filed by an attorney or agent representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or agent, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants). The signature of an attorney or agent to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a registered firm such papers must carry the signature of an individual member of the firm or an individual registered attorney or agent employed by the firm and duly authorized to sign on behalf of the firm, in addition to the firm name, and the certification shall be a certification by and on behalf of the firm and by the individual.

347. Removing names from registers. Attorneys, agents, and firms, registered to practice before the Patent Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person or firm on the registers, at the address of which separate notice for the register was last received, for the purpose of ascertaining whether such person or firm desires to remain on the register. The name of any person or firm failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the Official Gazette. Any name

so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate.

348. Suspension or disbarment proceedings. Except as otherwise provided, proceedings for suspension, disbarment, or exclusion from practice are before a Commissioner.

(a) *Investigating and prosecuting officer.* The duties of investigation, preparing charges, collecting and presenting testimony, and presenting a case for suspension, exclusion from practice or disbarment shall be performed by the Solicitor of the Patent Office or, at his direction, by a designated law examiner or other person, and neither the Solicitor nor such law examiner or other person shall participate in any manner in the decision of the case. If, upon investigation of a complaint or other information concerning an attorney or agent, it shall appear to the Solicitor that grounds for suspension, exclusion from practice, or disbarment exist, he shall prepare and forward the necessary notice and statement.

(b) *Notice of proceedings.* Proceedings for suspension or disbarment shall be instituted by the Solicitor by mailing to, or otherwise serving on, the respondent a notice of such proceeding with a statement of the charges against him, at the same time forwarding a copy to the Commissioner. It shall be the duty of the respondent to answer the charges as specified in paragraph (c) of this rule.

(c) *Answer.* The respondent's answer shall be filed in writing with the Commissioner within thirty days from the time the notice is served on the respondent, or within such extension of time as may be allowed by the Commissioner for good cause shown. The answer shall be under oath. Failure to answer within the time allowed will be taken as an admission of the charges. The respondent in his answer should specifically admit or deny every material allegation of fact in the statement of charges; every allegation not denied shall be deemed admitted, unless the respondent states that he has no knowledge thereof sufficient to form a belief, which statement shall be considered a denial. Any special matters of defense shall be stated affirmatively in the answer. False statements in the answer may be made the basis of supplemental charges.

(d) *Hearing.* Unless the Commissioner finds the answer sufficient to dispose of the charges, he will set the case for hearing before him, notifying the respondent and the Solicitor of the place, day and time of commencement of the hearing. Evidence as to the matters in issue may be submitted at the hearing, the testimony of witnesses being presented orally, under oath and reported.

The hearing may be advanced and continued by the Commissioner, as far as may be deemed convenient and proper.

Depositions for use at the hearing in lieu of personal appearance

of witnesses may be taken by either the Solicitor or the respondent on application to and with the written consent of the Commissioner within such times and under such conditions as the Commissioner may prescribe.

(e) *Hearing officer.* The Commissioner may, in his discretion, delegate the conduct of the hearing to a hearing or trial examiner who shall be the presiding officer and who shall make a recommended decision.

(f) *Administrative Procedure Act.* Proceedings shall be governed, in matters not specifically set forth herein, by the provisions of the Administrative Procedure Act, 60 Stat. 237, 5 U. S. C. 1001–1011, which may be applicable.

R. S. 487; 35 U. S. C. 11. Patent agents or attorneys; rules and regulations for; suspension or exclusion from practice. The Commissioner of Patents, subject to the approval of the Secretary of Commerce, may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing applicants or other parties before his office, and may require of such persons, agents, or attorneys, before being recognized as representatives of applicants or other persons, that they shall show that they are of good moral character and in good repute, are possessed of the necessary qualifications to enable them to render to applicants or other persons valuable service, and are likewise competent to advise and assist applicants or other persons in the presentation or prosecution of their applications or other business before the Office. The Commissioner of Patents may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before his office any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who refuses to comply with the said rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the office, by word, circular, letter, or by advertising. The reasons for any such suspension or exclusion shall be duly recorded. The action of the commissioner may be reviewed upon the petition of the person so refused recognition or so suspended or excluded by the district court of the United States for the District of Columbia under such conditions and upon such proceedings as the said court may by its rules determine.

52 Stat. 342; 35 U. S. C. 11a. Same; unauthorized representation as practitioner; penalty. It shall be unlawful for any person who has not been duly recognized to practice before the United States Patent Office in accordance with the provisions of section 11 of this title and the rules of the Patent Office to hold himself out or knowingly permit himself to be held out as a patent solicitor, patent agent, or patent attorney, or otherwise in any manner hold himself out, either directly or indirectly, as authorized to represent applicants for patent in their business before the Patent Office, and it shall be unlawful for any person who has, under the authority of section 11 of this title been disbarred or excluded from practice before the Patent Office, and has not been reinstated, to hold himself out in any manner whatever as entitled to represent or assist persons in the transaction of business before the Patent Office or any division thereof; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine of not less than $50 and not exceeding $500.

AMENDMENT OF RULES

351. Amendments to rules will be published. All amendments to these rules will be published in the Official Gazette and in the Federal Register. [*Rule 198*]

352. Publication of notice of proposed amendments. Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the Official Gazette and in the Federal Register. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

Oral hearings may be held at the discretion of the Commissioner.

Table of old rule numbers with approximate corresponding numbers of new rules.

Old rule	New rule	Old rule	New rule	Old rule	New rule
1	2.	*36*	71.	*81*	151, 153.
2	1.	*37*	75.	*82*	154.
3	Omitted.	*38*	74.	*83*	(R. S. 4930).
4	2.	*39*	77.	*84*	152.
5	32.	*40*	76.	*85*	171, 172.
6	33.	*41*	141, 146.	*86*	171, 172.
7	35.	*42*	142-144, 147.	*87*	175.
8	4.	*43*	78.	*88*	173, 174.
9	5.	*44*	79.	*89*	177.
10	5.	*45*	52.	*90*	176.
11	291, 292.	*46*	65.	*91*	178, 179.
12	6.	*47*	66.	*92*	Omitted.
13	133.	*48*	67.	*93*	201, 202, 204.
14	(Par. Y).	*49*	81.	*94*	78, 201, 204-206.
15	14.	*50*	82, 83.	*95*	203.
16	11.	*51*	84.	*96*	203, 208, 266.
17 (par. 1)	31.	*52*	84.	*97*	207.
17 (par. 2)	341.	*53*	174.	*98*	Omitted.
17a	341a,c.	*54*	85.	*99*	Omitted.
17b	341d.	*55*	86.	*100*	211.
17c	341b,c.	*56*	91.	*101*	211.
17d	341d.	*57*	91.	*102*	209.
17e	341c.	*58*	91.	*103*	209.
17f	341e.	*59*	92.	*104*	218.
17g	342.	*60*	94, 95.	*105*	241.
17h	343.	*61*	94.	*106*	Omitted.
17i	345.	*62*	93.	*107*	262.
17j	341h.	*63*	101, 102, 206.	*108*	226.
17k	341b.	*64*	105.	*109*	212, 233, 234.
18	34.	*65*	104, 111, 112.	*110*	215-217, 219, 223.
19	Omitted.	*66*	104, 106, 107.	*111*	227.
20	36.	*67*	Omitted.	*112*	221, 227.
21	(Par. V).	*68 (par. 1)*	111, 115, 133.	*113*	222.
22a, b	3.	*68 (par. 2, 3, 5)*	116.	*114*	225.
22c	(R. S. 487).	*68 (par. 4)*	127.	*115*	223.
23	Omitted.	*69*	111.	*116*	257.
24	(R. S. 4886, 4887).	*70*	118.	*117*	223.
25	42, 43.	*71*	117.	*118*	251.
26	46, 334.	*72 (par. 1)*	59.	*119*	252.
27	(R. S. 4923).	*72 (par. 2)*	87, 123.	*120*	245.
28	45.	*73 (par. 1)*	121.	*121*	245.
29	(R. S. 4887).	*73 (par. 2)*	126.	*122*	232, 235, 236, 258.
30	51, 52.	*73 (par. 3)*	33.	*123*	236, 246.
30A	58.	*74*	124, 125.	*124*	244.
31 (par. 1)	53.	*75*	131.	*125*	261.
31 (par. 2)	56.	*76*	132.	*126*	259.
31 (par. 3, 4)	55.	*77 (par. 1)*	135.	*127*	267.
31 (par. 5)	53.	*77 (par. 2, 3)*	136.	*128*	237.
31 (par. 6)	7.	*77 (par. 4)*	203.	*129*	238.
32	54.	*77 (par. 5, 6)*	103.	*130*	258.
33	61.	*78*	312.	*131*	242.
34	71.	*79*	(R. S. 4929, 4933).	*132*	265.
35	71.	*80*	155.	*133*	191.

Table of old rule numbers with approximate corresponding numbers of new rules.

Old rule	New rule	Old rule	New rule	Old rule	New rule
134	Cancelled 1941.	*154f*	278.	*178*	316.
135	193.	*155*	277.	*179*	omitted.
136	Cancelled 1927.	*156*	274, 275.	*180*	omitted.
137	194.	*157*	283.	*181*	321.
138	195.	*158*	284.	*182*	omitted.
139	196.	*159*	271, 285, 286.	*183*	(R. S. 4898).
140	198.	*160*	(R. S. 4906).	*184*	omitted.
141	197.	*161*	279.	*185*	(R. S. 4898).
142	181.	*162*	253.	*186*	331.
143	Omitted.	*163*	236, 243, 244, 254.	*187*	333.
144–146	Cancelled 1939.	*164*	311.	*188*	332, 334.
147	184.	*165*	313.	*189*	332.
148	301.	*166*	omitted.	*190*	22.
149	302, 305.	*167*	314.	*191*	21.
150	Omitted.	*168*	(R. S. 4884).	*192*	12.
151	256.	*169*	315.	*193*	13.
152	256.	*170*	322, 323.	*194*	23.
153	243, 244.	*171*	135, 138.	*195*	26.
153a	247.	*172*	137.	*196*	(Par. X).
154a	273.	*173*	88.	*197*	(Par. U, V).
154b	248, 273.	*174*	316.	*198*	351.
154c	275, 276.	*175*	317.	*199*	182.
154d	281.	*176*	Cancelled 1939.		
154e	282.	*177*	108.		

Forms

The following forms illustrate the manner of preparing various papers to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. In special situations such alterations as the circumstances may render necessary may be made, provided they do not depart from the requirements of the rules or of the statute. Before using any form the pertinent rules of practice and sections of the statute should be studied carefully.

LIST OF FORMS

1. Petition for patent, by a sole inventor.
2. Petition for patent, by a sole inventor, for himself and assignee.
3. Petition for patent, by a sole inventor, with power of attorney.
4. Petition for patent, by joint inventors.
5. Petition for patent, by an administrator.
6. Petition for patent, by an executor.
7. Petition for patent, by the guardian of an insane person.
11. Oath to accompany application for patent.
12. Oath to accompany application for patent, by an administrator (or executor).
13. Oath not accompanying application.
14. Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.
16. Combined petition, oath and specification (single signature form), sole inventor.
21. Design patent application, petition.
22. Design patent application, specification.
23. Design patent application, oath.
25. Plant patent application, petition.
26. Plant patent application, oath.
28. Reissue application, petition, by the inventor.
29. Reissue application, petition, by the assignee.
31. Reissue application, oath, by the inventor.
32. Reissue application, oath, by the assignee.
33. Oath as to loss of letters patent.
36. Power of attorney or authorization of agent, not accompanying application.
37. Revocation of power of attorney or authorization of agent.
39. Amendment.
41. Appeal from Principal Examiner to the Board of Appeals.
43. Disclaimer in patent.
44. Interference, preliminary statement of domestic inventor.
45. Interference, preliminary statement of foreign inventor.
46. Interference, disclaimer during interference.
47. Interference, notice of taking testimony.
48. Interference, form of deposition.

49. Interference, certificate of officer to follow deposition.
51. Notice of appeal to court, ex parte.
52. Notice of appeal to court, interference.
53. Petition for appeal to court, ex parte.
54. Petition for appeal to court, interference.

1. *Petition for patent, by a sole inventor.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the annexed specification.

_____
(Signature)

2. *Petition for patent, by a sole inventor, for himself and assignee.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to himself and _____, a citizen of the United States and a resident of _____, State of _____, whose post-office address is _____, as his assignee, for the improvement in _____, set forth in the annexed specification.

_____
(Signature)

3. *Petition for patent, by a sole inventor, with power of attorney.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the annexed specification; and he hereby appoints _____, of _____, _____, (Registration No. _____), his attorney (or agent), to prosecute this application and to transact all business in the Patent Office connected therewith.

_____
(Signature)

4. *Petition for patent by joint inventors.*

To the Commissioner of Patents:

Your petitioners, _____ and _____, citizens of the United States and residents, respectively, of _____, of State of _____, and of _____, State of _____ (or subjects, etc.), whose post-office addresses are, respectively, _____ and _____, pray that letters patent may be granted to them, as

joint inventors, for the improvement in _____, set forth in the annexed specification.

_____

_____

(Signatures)

5. *Petition for patent, by an administrator.*

To the Commissioner of Patents:

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, administrator of the estate of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said (C _____ D _____ for an improvement in _____, set forth in the annexed specification.

Signed at _____, in the county of _____ and State of _____, this _____ day of _____, 19__.

A _____ B _____,

_____

(Signature)

Administrator, etc.

6. *Petition for patent, by an executor.*

To the Commissioner of Patents:

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, executor of the last will and testament of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters testamentary, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the annexed specification.

A _____ B _____,

(Signature)

Executor, etc.

7. *Petition for patent, by the guardian of an insane person.*

To the Commissioner of Patents:

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, and who has been appointed guardian (or conservator or representative) of C _____ D. _____ (as by reference to the duly certified copy of the order of court, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the annexed specification.

A _____ B _____,

(Signature)

Guardian, etc.

11. *Oath to accompany application for patent.*

_____}
_____} *ss:*

(1) _____, the above-named petitioner ____, being sworn (or affirmed), depose__ and say __ that _____ citizen __ of the United States (2) and resident __ of (3) _____, that _____ verily believe__ (4) _____ to be the original, first, and (5) __ inventor of the improvement in (6) _____ described and claimed in the annexed specification; that (7) _____ do _____ not know and do ____ not believe that the same was ever known or used before (8) _____ invention or discovery thereof, or patented or described in any printed publication in any country before (8) _____ invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by (9) _____ or (8) _____ legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said improvement has been filed by (9) _____ or (8) _____ representatives or assigns in any country foreign to the United States, except as follows: (10) _____

Inventor's full name. (11) _____
_____
(Signature)

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL] _____
(Signature of notary or officer)

(12) _____
(Official character)

NOTES: See rules 65 and 66.

(1) Name of inventor; if the invention is joint, the names of all the joint inventors.

(2) If the applicant be an alien, state of what foreign country he is a citizen or subject.

(3) Give city and state, or if a foreign resident, city and country, of residence. If more than one inventor give residences of each inventor if different. Street address need not be given here as it appears elsewhere.

(4) "Himself," in the case of a sole inventor: "themselves" in the case of joint inventors.

(5) "Sole" in the case of a sole inventor; "joint" in the case of joint inventors.

(6) Title of the invention.

(7) "He" in the case of a sole inventor; "they" in the case of joint inventors.

(8) "His" in the case of a sole inventor; "their" in the case of joint inventors.

(9) "Him" in the case of a sole inventor; "them" in the case of joint inventors.

(10) Name each country in which an application has been filed and in each case give date of filing; the number of the application or other identifying data may also be stated. If no foreign application has been filed, strike out the words "except as follows."

(11) All oaths must bear the signature of the affiant.

(12) See rule 66 for officers who may administer oaths, and for oaths executed in foreign countries.

12. *Oath to accompany application for patent, by an administrator (or executor).*

_____}
_____} *ss:*

A _____ B _____, the above-named petitioner, being sworn (or affirmed), deposes and says that he is a citizen of the United States of America and a resident of _____, that he is the administrator of the estate (or executor of the last will and testament) of C _____ D _____, deceased, late a citizen of the United States and resident of _____, that he verily believes the said C _____ D _____ to be the original, first and sole inventor of the improvement in _____ described and claimed in the annexed specification; that he does not know and does not believe that the same was ever known or used before the invention or discovery thereof by the said C _____ D _____, or patented or described in any printed publication in any country before the said invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by the said C _____ D _____ or his legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said improvement has been filed by the said C _____ D _____ or his representatives or assigns in any country foreign to the United States, except as follows:_____

A _____ B _____
(Signature)
Administrator, etc.

Sworn to and subscribed before me this _____ day of _____, 19____.

_____
(Signature of notary or officer)

[SEAL]

_____
(Official character)

13. *Oath not accompanying application.*

_____}
_____} *ss:*

_____, being sworn (or affirmed), deposes and says that he is a citizen of the United States of America and resident of _____, that on _____, 19____, he filed application for patent Serial No. _____ in the United States Patent Office, that he verily believes himself to be the original, first and sole inventor of the improvement in _____ described and claimed in the specification of said application for patent; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year prior to the date of said application, or in public use or on sale in the United States for more than one year prior to the date of said application; that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to the date of said application; and

that no application for patent on said improvement has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows: _____.

Inventor's full name: _____

_____

Sworn to and subscribed before me this _____ day of _____, 19____

[SEAL] _____

(Signature of notary or officer)

_____

(Official character)

14. *Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.*

_____,
_____, } *ss:*

_____, whose application for letters patent for an improvement in _____, Serial No. _____, was filed in the United States Patent Office on or about the _____ day of _____, 19____, being duly sworn (or affirmed) deposes and says that the subject matter of the foregoing (1) amendment was part of his invention, was invented before he filed his original application, above identified, for such invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned.

_____

(Signature)

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL] _____

(Signature of notary or officer)

_____

(Official character)

NOTE: (1) If the supplemental oath does not accompany the amendment, the amendment should be identified. See rule 67.

16. *Combined petition, oath and specification (single signature form), sole inventor.*

[Title of Invention]

[Specification]

Being duly sworn, I, _____, depose and say that I am a citizen of _____, residing at _____; that I have read the foregoing specification and claims and I verily believe I am the original, first, and sole inventor of the invention or discovery in _____ described and claimed therein; that I do not know and do not believe that this invention was ever known or used before my invention or discovery thereof, or patented or described in any printed publication in any country before my invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that this invention or discovery has not been patented in any

country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months before this application; and that no application for patent on this invention or discovery has been filed by me or my representatives or assigns in any country foreign to the United States, except as follows:

And I hereby appoint _____, Registration No. _____, my
(Name and address)

attorney (or agent) with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent Office connected therewith.

Wherefore I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification and claims, oath, power of attorney, and this petition.

Inventor _____
(First name) (Middle initial) (Last name)

Post office address:

_____

_____

State of _____ }
County of _____ } *ss:*

Before me personally appeared _____, to me known to be the person described in the above application for patent, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein as being under oath, on the _____ day of _____, 19____.

[SEAL] _____
(Notary Public or Officer)

NOTE: This form may be executed only when attached to a complete application as the last page thereof.

21. *Design patent application, petition.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the term of three and one-half years (or seven years, or fourteen years) for the new and original design for _____, set forth in the annexed specification.

_____
(Signature)

22. *Design patent application, specification.*

To all whom it may concern:

Be it known that I, _____, a citizen of the United States, residing at _____, State of _____, have invented a new, original, and ornamental design for (1) _____, of which the following is a specification, reference being had to the accompanying drawing, forming a part hereof.

Fig. 1 is a (2) _____

Fig. 2 is (2) _____

I claim:

The ornamental design for a (1) _____ as shown.

_____

(Signature)

NOTES: (1) Insert specific name of article.

(2) Insert brief description of figure or figures of the drawing.

23. *Design patent application, oath.*

_____,
_____, } *ss:*

_____, the above-named petitioner__, being sworn (or affirmed), depose__ and say__ that _____citizen__ of _____ and resident__ of _____, that _____ verily believe _____ to be the original, first and _____ inventor of the design for _____ described and claimed in the annexed specification; that _____ do__ not know and do__ not believe that the same was ever known or used before _____ invention thereof, or patented or described in any printed publication in any country before _____ invention thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said design has not been patented in any country foreign to the United States on an application filed by _____ or _____ legal representatives or assigns more than six months prior to this application; and that no application for patent on said design has been filed by _____ or _____ representatives or assigns in any country foreign to the United States, except as follows: _____

Inventor's full name: _____
_____

Sworn to and subscribed before me this _____ day of _____, 19_____

[SEAL]

_____

(Signature of notary or officer)

_____

(Official character)

NOTE: See applicable notes under form 11.

25. *Plant patent application, petition.*

Your petitioner, _____, a citizen of the United States and a resident of _____, in the State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the new and distinct variety of _____, set forth in the annexed specification.

_____

(Signature)

26. *Plant patent application, oath.*

_____
_____ } ss:

_____, the above-named petitioner, being sworn (or affirmed), deposes and says that he is a citizen of the United States of America and resident of _____ that he verily believes himself to be

the original, first, and sole inventor or discoverer of the new and distinct variety of _____ described and claimed in the annexed specification; that he has asexually reproduced the said new and distinct variety; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said new and distinct variety has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows:

Inventor's full name: _____

_____

Sworn to and subscribed before me this _____ day of _____, 19____.

_____

(Signature of notary or officer)

_____

(Official character)

[Seal]

28. *Reissue application, petition, by the inventor.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ ~~(or subject, etc.)~~, whose post-office address is _____, prays that he may be allowed to surrender the letters patent for an improvement in _____, No. 2,204,208 granted to him January 11, 1940, whereof he is now sole owner ~~(or whereof _____, on whose behalf and with whose assent this application is made, is now sole owner, by assignment)~~, and that letters patent may be reissued to him ~~(or the said _____)~~ for the same invention upon the annexed amended specification. With this petition is filed an ~~abstract of title, duly certified~~ (or an order for a title report), as required in such cases.

_____

(Signature)

Assigned to Parker Rust Proof Company

[Assent of assignee to reissue]

The undersigned, assignee of the entire (or of an undivided) interest in the above-mentioned letters patent, hereby assents to the accompanying application.

_____

(Signature)

29. *Reissue application, petition, by the assignee.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that he may be allowed to surrender the letters patent for an improvement in _____, No. _____, granted _____, 19____, to _____, now deceased, whereof he is now owner, by assignment of the entire interest and that the letters patent may be reissued to him for the same invention, upon the annexed

amended specification. With this petition is filed an abstract of title (or an order for a title report).

_____
(Signature)

NOTE: To be used only when the inventor is dead.

31. *Reissue application, oath, by the inventor.*

_____
_____ } ss:

_____ _____, the above-named petitioner, being duly sworn (or affirmed), deposes and says that he is a citizen of the United States of America, and a resident of _____, in the State of _____; that he verily believes himself to be the original, first and sole inventor of the invention described and claimed in letters patent No. _____ and in the foregoing specification and for which improvement he solicits a patent; that he does not know and does not believe that said improvement was ever known or used before his invention or discovery thereof, that (continue with the allegations and facts required by rule 175) _____

Inventor's full name: _____

_____

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
(Signature of notary or officer)

_____
(Official character)

[Seal]

32. *Reissue application, oath, by the assignee.*

_____
_____ } ss:

A_____ B_____, the above-named petitioner, being only sworn (or affirmed), deposes and says that he is a citizen of the United States and resident of_____ in the State of_____; that the entire title of letters patent No._____, for_____, granted on_____ to C_____ D_____, is vested in him; that the said C_____ D_____ is now deceased; that he verily believes the said C_____ D_____ to be the original, first and sole inventor of the invention described and claimed in the aforesaid letters patent and in the annexed specification; that he does not know and does not believe that said invention was ever known or used before the invention or discovery thereof by the said C_____ D_____; that (continue with the allegations and facts required by rule 175)_____

Assignee's full name_____

Sworn to and subscribed before me this_____ day of_____, 19____.

[Seal]

_____
(Signature of notary or officer)

_____
(Official character)

NOTE: To be used only when the inventor is dead.

33. *Oath as to loss of letters patent.*

_____}
_____} *ss:*

_____, being duly sworn (or affirmed), depose__ and say__ that the letters patent No. _____, granted to him, and bearing date on the____ day of _____, 19__, has been either lost or destroyed; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find it.

[Seal] _____
(Signature)

Subscribed and sworn to before me this _____ day of _____, 19____.

[Seal] _____
(Signature of notary or officer)

_____
(Official character)

36. *Power of attorney or authorization of agent, not accompanying application.*

[If the power of attorney or authorization of agent be given at any time other than that of making application for letters patent, it will be in substantially the following form:]

To the Commissioner of Patents:

The undersigned having, on or about the _____ day of _____, 19____, made application for letters patent for an improvement in _____ serial number _____, hereby appoints _____ of _____, State of _____, Registration No. _____ his attorney (or agent), to prosecute said application, and to transact all business in the Patent Office connected therewith.

_____
(Signature)

37. *Revocation of power of attorney or authorization of agent.*

To the Commissioner of Patents:

The undersigned having, on or about the_____day of_____, 19____, appointed _____, of _____, State of _____, his attorney (or agent) to prosecute an application for letters patent which application was filed on or about the_____day of_____, 19____, for an improvement in_____, serial number_____, hereby revokes the power of attorney (or authorization of agent) then given.

_____
(Signature)

39. *Amendment.*

IN THE UNITED STATES PATENT OFFICE

Applicant: _____ : (Date)
Ser. No. _____ : Div. _____
Filed _____ :
For _____ :

To the Commissioner of Patents:

In response to the office letter of _____ 19____, please amend as follows:

Page_____, line_____, change "_____" to_____.
Page_____, line_____, after "_____" insert_____.
Page_____, line_____, to end, cancel.
Claim_____, cancel lines_____ and _____ and substitute_____.
Cancel claims _____ inclusive.
Add the following claims:

Remarks

(Here state nature and purpose of the amendments and make all explanations necessary for a response to the rejections and objections of record, etc. See rules 111, 115–126, 135.)

Respectfully,

_____
Applicant

By_____
His attorney or (Agent)

41. *Appeal from the Principal Examiner to the Board of Appeals.*

IN THE UNITED STATES PATENT OFFICE

In re application of_____
Serial Number _____
Title_____
Filed _____
Division Number_____

To the Commissioner of Patents:

SIR: Applicant hereby appeals to the Board of Appeals from the decision of the principal examiner finally rejecting claims _____

_____
(Signature)

43. *Disclaimer in patent.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States, residing at _____, in the county of _____ and State of _____ (or subject, etc.), represents that in the matter of a certain improvement in _____, for which letters patent of the United States No. _____ were granted to _____, on the _____ day of _____, 19____, he is (here state the exact interest of the disclaimant; if assignee, set out liber and page where assignment is recorded), and that he has reason to believe that through inadvertence, accident, or mistake and without any fraudulent or deceptive intention the specification and claim of said

letters patent are too broad. Your petitioner, therefore, hereby enters this disclaimer to claim _____ of said patent.

Signed at _____, State of _____, this _____ day of _____, 19____.

_____
(Signature)

Witnesses:

_____

_____

44. *Interference, preliminary statement of domestic inventor.*

PRELIMINARY STATEMENT OF _____

_____
v. } Interference No. _____
_____

_____
_____ } *ss:*

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in the United States; that

(1) The first drawing of the invention was made on _____, 19___.[1]

(2) The first written description of the invention was made on _____, 19____.[1]

(3) The invention was first disclosed to others on _____, 19____.[1]

(4) The date of the first act or acts susceptible of proof, other than acts of the character specified in (1), (2), and (3) which, if proven, would establish conception of the invention, and a brief description of such act or acts are [e. g. the making of a nonoperating model on _____ 19____].

(5) The invention was actually reduced to practice on _____, 19____.

(6) Active exercise of reasonable diligence toward reducing the invention to practice began on _____, 19____.[1]

(7) The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

(8) The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of section 4837, R. S. are No. _____, filed _____ in _____.

_____
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19____.

[SEAL]

_____
(Signature of notary public or officer)

_____
(Official character)

[1] If there was no act corresponding to this allegation prior to the filing date of the application, it must be so stated. Note, however, date of completion of application drawing and specification, date of disclosure to person preparing the application, and diligence in preparing the application.

45. *Interference, preliminary statement of foreign inventor.*

PRELIMINARY STATEMENT OF_____

_____ } Interference No. _____
v.
_____ }

_____ } *ss:*
_____ }

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in _____; that

Knowledge of such invention was introduced into the United States under the following circumstances: On _____, 19____, the said _____ wrote a letter to _____, residing at _____, State of _____, describing such invention and soliciting his services in procuring a patent therefor in the United States. This letter, he is informed and believes, was received by the said _____ on _____, 19____. Also _____, 19____, he wrote a letter to the firm of _____, of _____, State of _____, describing such invention and requesting their assistance in manufacturing and putting it on the market, which letter, he is informed and believes, was received by them on _____, 19____. (If the invention has not been introduced into the United States otherwise than by the application papers, it should be so stated, and the date at which such papers were received in the United States alleged.)

The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of section 4887, R. S. are

No. _____, filed _____ in _____.

_____
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19 ____.

[SEAL]

_____
(Signature of notary public or officer) (1)

_____
(Official character)

NOTE: (1) The authority of a foreign notary public must be authenticated by a diplomatic or consular certificate.

When acts were performed in the United States corresponding to the allegations (1) through (6), in the preliminary statement of a domestic inventor (Form 44) these acts should be included by appropriate allegations in the preliminary statement of a foreign inventor.

46. *Interference, disclaimer during interference.*

_____
v. } Interference No. _____
_____

In the matter of the above identified interference, under the provisions of and for the purpose set forth in § 1.262, I hereby disclaim the subject matter of all the counts of said interference.

_____
(Signature of inventor)

Date _____

_____ Company, Inc., assignee of the entire right, title, and interest in the application of _____, Serial No. _____, filed _____, hereby assents to the foregoing disclaimer.

[Corporate seal] _____ Company, Inc.

By _____
(Signature of officer and nature of office)

Date _____

47. *Interference, notice of taking testimony.*

_____
v. } Interference No. _____
_____

_____, 19____

_____
(Name of opposing attorney)

_____
(Address of opposing attorney)

SIR: You are hereby notified that on _____, _____, 19____, at _____ o'clock in the forenoon at the office of _____, _____ Street, _____, _____, I shall proceed to take testimony on behalf of the party _____ in the above identified interference.

The witnesses to be examined are:

_____	_____
_____	_____
_____	_____
(Name of witnesses)	(Residences of witnesses)

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

_____
(Signature of attorney)

Proof of Service

_____
_____ } *ss:*

_____ being duly sworn (or affirmed) deposes and says that he served the above notice upon _____, the attorney of the party _____, by mailing a copy of said notice by registered mail addressed as follows: _____, _____ Street _____, _____

_____

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19____.

[SEAL]

_____
(Signature of notary public or officer)

_____
(Official character)

48. *Interference, form of deposition.*

IN THE UNITED STATES PATENT OFFICE

_____ }
v. } Interference No. _____
_____ }

Depositions of witnesses examined on behalf of _____, pursuant to the annexed notice, at the office of _____, _____ Street, _____, _____, on _____, _____ _____, 19____.

Present:

_____, on behalf of _____.

_____, on behalf of _____.

_____, being duly sworn (or affirmed) deposes and says, in answer to interrogatories proposed to him by _____, counsel for _____, as follows:

Q. 1. What is your name, age, occupation, and residence?

A. My name is _____; I am _____ years of age; I am a manufacturer of _____, and reside at _____, in the State of _____.

Q. 2. etc. _____

_____

And in answer to cross-interrogatories proposed to him by _____, counsel for _____, he says:

X Q. 1. _____?

A. _____

_____
(Signature)

49. *Interference, certificate of officer.*

I, _____, a notary public within and for the county of _____ and State of _____ (or other officer, as the case may be), do hereby certify that the foregoing depositions of _____ and _____ were taken on behalf of _____ in pursuance of the notice hereto annexed, before me, at the office of _____, _____ Street, in the city of _____, and said county, on the _____ day (or days) of _____, 19____; that said witnesses were by me duly sworn (or affirmed) before the commencement of their testimony; that the testimony of said witnesses was written out by myself (or by _____ _____ in my presence); that the opposing party, _____ _____, was present (or absent or represented by counsel) during the taking of said testimony; that said testimony was taken at the aforementioned place and was commenced at ____ o'clock ____, on the _____ of

_____, 19____, and was continued pursuant to adjournment on the _____, _____ (etc.) and was concluded on the _____ day of _____, 19____, at ____ o'clock ____; that the depositions were read by, or to, each witness before he signed the same and that each witness signed the same in my presence; that I am not related to or employed by either of the parties, or their attorneys or agents, or interested directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise. (If any of the foregoing requirements are waived, the certificate shall so state.)

In testimony whereof I have hereunto set my hand and affixed my seal of office at _____, in said county, this _____ day of _____, 19____.

[SEAL]

_____
(Signature of notary public or officer)

_____
(Official character)

The notary public or other officer will then append to the depositions the notice under which it is taken and will seal up all the evidence, notices, and paper exhibits and direct them to the Commissioner of Patents, placing upon the envelope a certificate in substance as follows:

I hereby certify that the within depositions of _____ and _____, relating to the matter of Interference No. _____, _____ v. _____ were taken, sealed up, and addressed to the Commissioner of Patents by me this _____ day of _____, 19____.

[SEAL]

_____
(Signature of notary public or officer)

_____
(Official character)

51. *Notice of appeal to the U. S. Court of Customs and Patent Appeals in an ex parte case, with reasons of appeal.*

IN THE UNITED STATES PATENT OFFICE

In re application of
_____ _____.
Serial No. _____.
Filed _____.
Improvements in _____.

To the Commissioner of Patents:

SIR: You are hereby notified of my appeal to the U. S. Court of Customs and Patent Appeals from the decisions of the board of appeals, rendered on or about the _____ day of _____, 19____, rejecting my above-entitled application and refusing me a patent for the invention set forth therein.

The following are assigned as reasons of appeal:

(Here insert in separate counts the specific errors complained of)

_____,

By _____,
His Attorney.

52. *Notice of appeal to the U. S. Court of Customs and Patent Appeals in an interference case, with reasons of appeal.*

IN THE UNITED STATES PATENT OFFICE

BEFORE THE COMMISSIONER OF PATENTS

_____ vs. _____ } Interference No. _____ Subject-matter: Improvements in _____.

And now comes _____, by _____, his attorney, and gives notice to the Commissioner of Patents of his appeal to the U. S. Court of Customs and Patent Appeals from the decision of the board of interference examiners, rendered on or about the _____ day of _____, 19____, awarding priority of invention to _____ in the above-entitled case. and assigns as his reasons of appeal the following:

(Here set out in separate counts the specific errors in the decision complained of)

_____,

By _____

His Attorney.

53. *Petition for an appeal to the U. S. Court of Customs and Patent Appeals in an ex parte case.*

IN THE U. S. COURT OF CUSTOMS AND PATENT APPEAL

In re application of
_____
Serial No. _____.
Filed _____.
Improvements in _____.

To the U. S. Court of Customs and Patent Appeals:

Your petitioner, _____ of _____, in the county of _____, and Sate of_____, respectfully represents:

That he is the original and first inventor of certain new and useful improvements in _____.

That on the _____ day of _____, 19____, in the manner prescribed by law, he presented his application to the Patent Office, praying that a patent be issued to him for the said invention.

That such proceedings were had in said office upon said application; that on the _____ day of _____, 19____, it was rejected by the board of appeals and a patent for said invention was refused him.

That on the _____ day of _____, 19____, your petitioner, pursuant to sections 4912 and 4913, Revised Statutes, United States, gave notice to the Commissioner of Patents of his appeal to this honorable court from his refusal to issue a patent to him for said invention upon said application as aforesaid, and filed with him, in writing, the special reasons of appeal hereinafter included.

That the Commissioner of Patents has furnished him a certified transcript of the record and proceedings relating to said application for patent, including the notice and reasons of appeal, which transcript is filed herewith and is to be deemed and taken as a part hereof.

Wherefore your petitioner prays that his said appeal may be heard upon and for the reasons assigned therefore to the commissioner as aforesaid, and that

said appeal may be determined and the decision of the commissioner be revised and reversed, that justice may be done in the premises.

_____,

By _____

His Attorney.

[To be signed here by a member of the bar of the U. S. Court of Customs and Patent Appeals]

_____,

Solicitor and of Counsel.

54. *Petition for an appeal to the U. S. Court of Customs and Patent Appeals in an interference case.*

IN THE U. S. COURT OF CUSTOMS AND PATENT APPEALS

In re Interference No. _____

_____,
Appellant,
vs.
_____,

To the U. S. Court of Customs and Patent Appeals:

Your petitioner, _____ of _____, in the county of _____ and State of _____, respectfully represents:

That he is the original and first inventor of certain new and useful improvements in _____.

That on the _____ day of _____, 19____, in the manner prescribed by law, he presented his application to the Patent Office, praying that a patent be issued to him for the said invention.

That thereafter, to wit, on the ____ day of _____, 19____, an interference proceeding was instituted and declared between his said application and a pending application of one _____ _____, serial No. _____, filed _____, for a similar invention.

That the subject-matter of said interference as set forth in the official declaration was as follows:

[Here state the issues of the interference]

That thereafter, to wit, on the _____ day of _____, 19____, the case having been submitted upon the preliminary statements and evidence presented by the parties thereto, the board of interference examiners rendered a decision awarding priority of invention to _____.

That on the _____ day of _____, 19____, your petitioner, pursuant to sections 4912 and 4913, Revised Statutes, United States, gave notice to the Commissioner of Patents of his appeal to this honorable court from the decision of the board of interference examiners awarding priority of invention to said _____, as aforesaid, and filed with him, in writing, the special reasons of appeal hereinafter included.

That the Commissioner of Patents has furnished your petitioner a certified transcript of the record and proceedings relating to said interference case, including the notice and reasons of appeal, which transcript is filed herewith and is to be deemed and taken as a part hereof.

Wherefore your petitioner prays that his said appeal may be heard upon and for the reasons assigned therefor to the commissioner, as aforesaid, and that said appeal may be determined and the decision of the commissioner be revised and reversed, that justice may be done in the premises.

---,

By ---.

His Attorney.

[To be signed here by a member of the bar of the U. S. Court of Customs and Patent Appeals]

---,

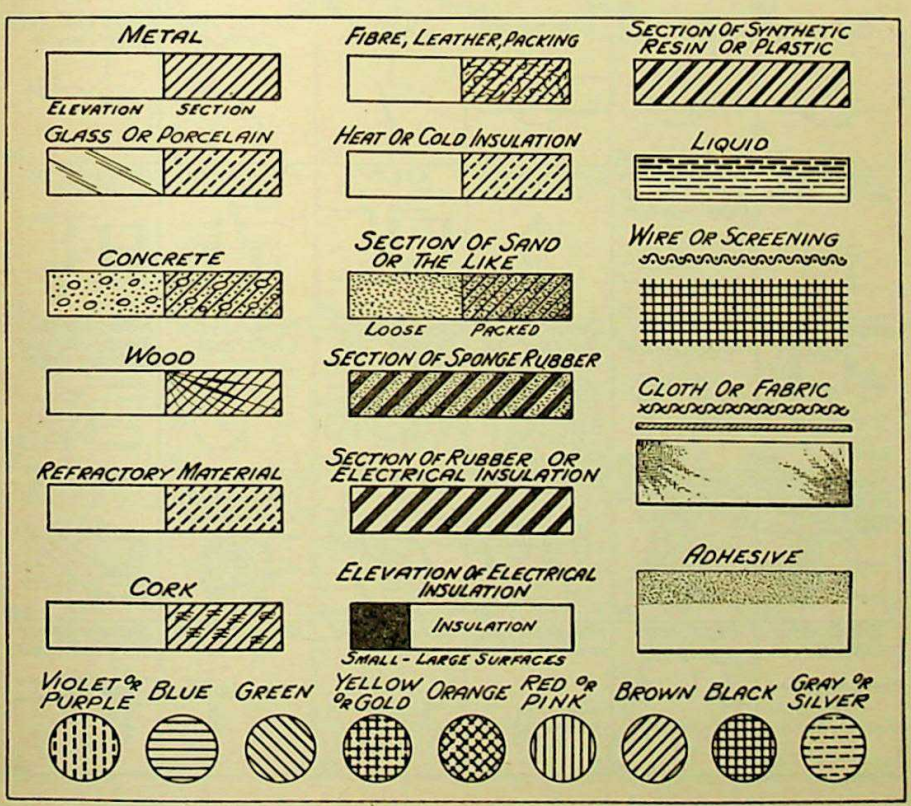
Solicitor and of Counsel.

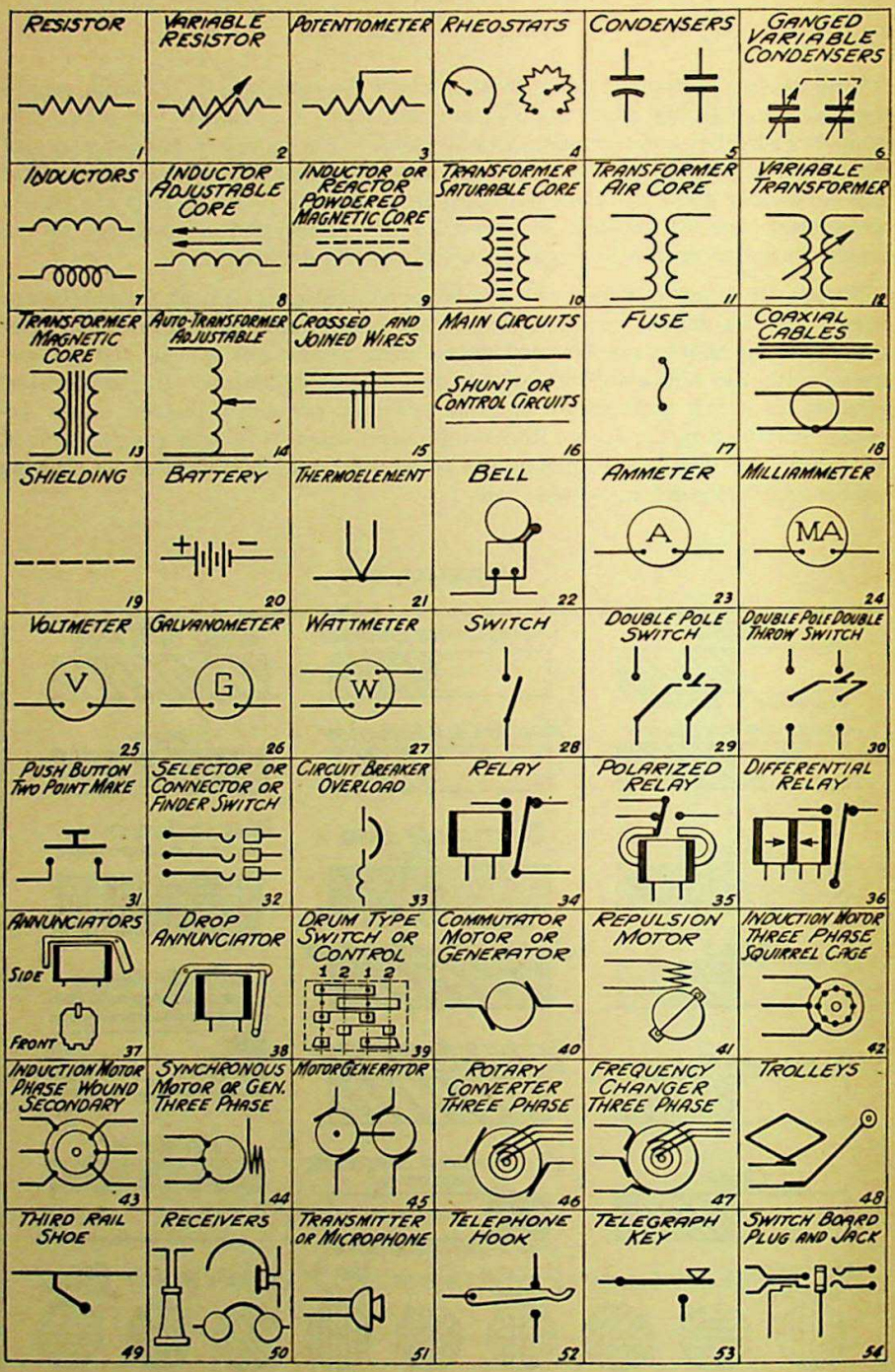
Symbols for Draftsmen

Rule 84 (g) states that graphical symbols for conventional elements may be used on the drawing when appropriate, subject to approval by the Office. The symbols and other conventional devices which follow have been and are approved for such use. This collection does not purport to be exhaustive, other standard and commonly used symbols will also be acceptable provided they are clearly understood, are adequately identified in the specification as filed, and do not create confusion with other symbols used in patent drawings.

NOTES: In general, in lieu of a symbol, a conventional element, combination or circuit may be shown by an appropriately labeled rectangle, square, or circle; abbreviations should not be used unless their meaning is evident and not confusing with the abbreviations used in the suggested symbols. In the electrical symbols an arrow through an element indicates variability thereof, see for example symbols 2, 6, 12; dotted line connection of arrows indicates ganging thereof, see symbol 6; inherent property (as resistance) may be indicated by showing symbol (for resistor) in dotted lines.

MATERIALS, ETC.




RESISTOR 1
VARIABLE RESISTOR 2
POTENTIOMETER 3
RHEOSTATS 4
CONDENSERS 5
GANGED VARIABLE CONDENSERS 6
INDUCTORS 7
INDUCTOR ADJUSTABLE CORE 8
INDUCTOR OR REACTOR POWDERED MAGNETIC CORE 9
TRANSFORMER SATURABLE CORE 10
TRANSFORMER AIR CORE 11
VARIABLE TRANSFORMER 12
TRANSFORMER MAGNETIC CORE 13
AUTO-TRANSFORMER ADJUSTABLE 14
CROSSED AND JOINED WIRES 15
MAIN CIRCUITS
SHUNT OR CONTROL CIRCUITS 16
FUSE 17
COAXIAL CABLES 18
SHIELDING 19
BATTERY + − 20
THERMOELEMENT 21
BELL 22
AMMETER A 23
MILLIAMMETER MA 24
VOLTMETER V 25
GALVANOMETER G 26
WATTMETER W 27
SWITCH 28
DOUBLE POLE SWITCH 29
DOUBLE POLE DOUBLE THROW SWITCH 30
PUSH BUTTON TWO POINT MAKE 31
SELECTOR OR CONNECTOR OR FINDER SWITCH 32
CIRCUIT BREAKER OVERLOAD 33
RELAY 34
POLARIZED RELAY 35
DIFFERENTIAL RELAY 36
ANNUNCIATORS SIDE FRONT 37
DROP ANNUNCIATOR 38
DRUM TYPE SWITCH OR CONTROL 1 2 1 2 39
COMMUTATOR MOTOR OR GENERATOR 40
REPULSION MOTOR 41
INDUCTION MOTOR THREE PHASE SQUIRREL CAGE 42
INDUCTION MOTOR PHASE WOUND SECONDARY 43
SYNCHRONOUS MOTOR OR GEN. THREE PHASE 44
MOTOR GENERATOR 45
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TROLLEYS 48
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RECEIVERS 50
TRANSMITTER OR MICROPHONE 51
TELEPHONE HOOK 52
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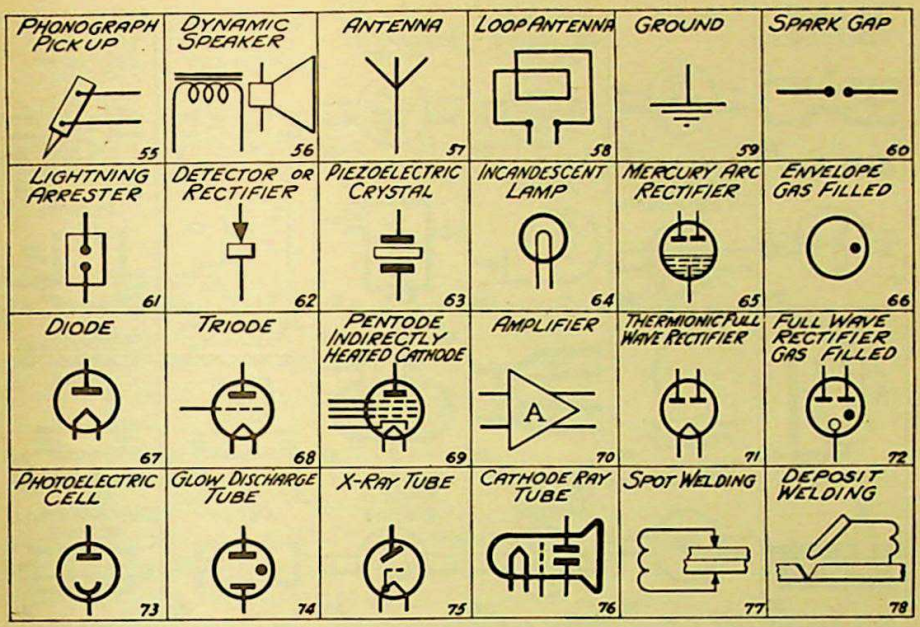
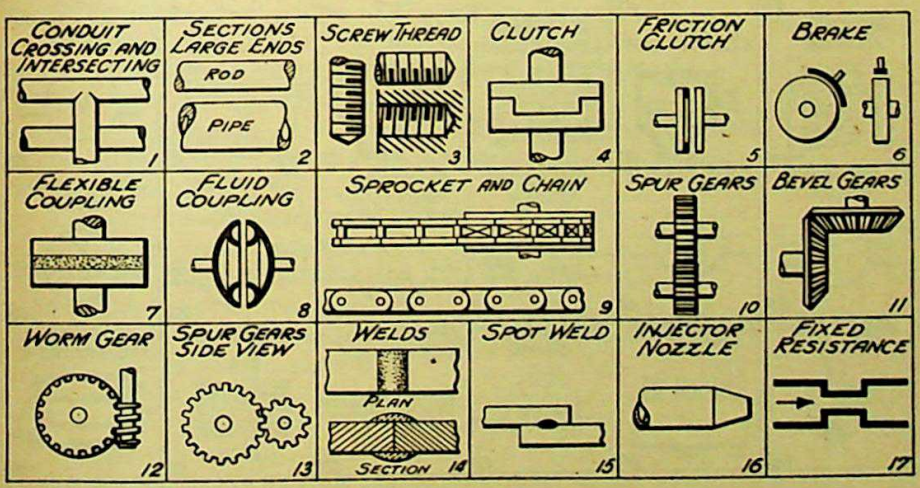
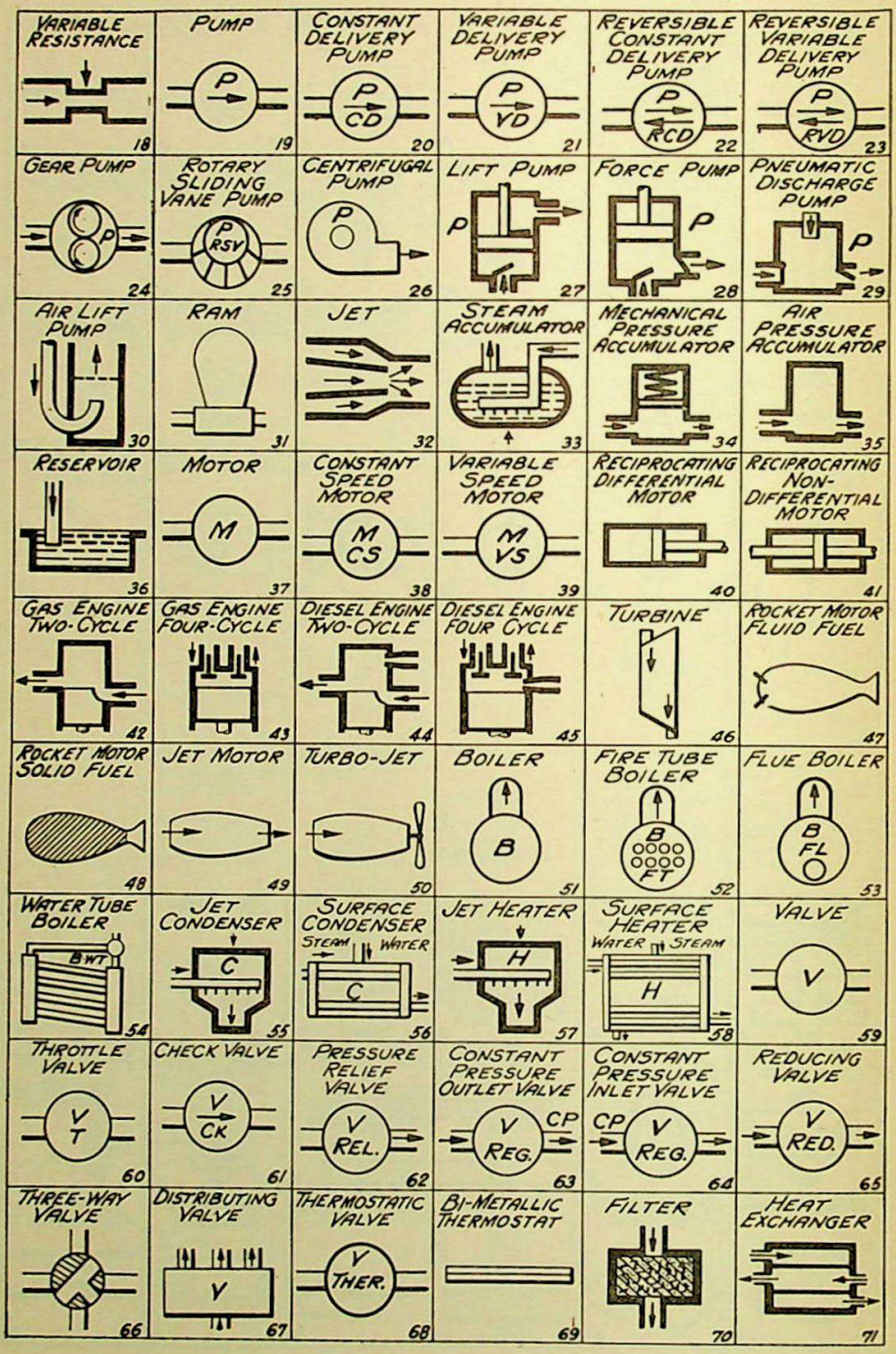


Mechanical Symbols




VARIABLE RESISTANCE
18
PUMP
P
19
CONSTANT DELIVERY PUMP
P
CD
20
VARIABLE DELIVERY PUMP
P
VD
21
REVERSIBLE CONSTANT DELIVERY PUMP
P
RCD
22
REVERSIBLE VARIABLE DELIVERY PUMP
P
RVD
23
GEAR PUMP
P
24
ROTARY SLIDING VANE PUMP
P
RSV
25
CENTRIFUGAL PUMP
P
26
LIFT PUMP
P
27
FORCE PUMP
P
28
PNEUMATIC DISCHARGE PUMP
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DIESEL ENGINE TWO-CYCLE
44
DIESEL ENGINE FOUR CYCLE
45
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ROCKET MOTOR FLUID FUEL
47
ROCKET MOTOR SOLID FUEL
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TURBO-JET
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BOILER
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FIRE TUBE BOILER
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WATER TUBE BOILER
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JET CONDENSER
C
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JET HEATER
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SURFACE HEATER
WATER
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H
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VALVE
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THROTTLE VALVE
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